PETITION FOR WRIT OF CERTIORARI

105

Supreme Court, U.S.
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No. 08-390

IN THE

Supreme Court of the United States

CHIPLEASE, INC. and SCATTERED CORPORATION
Petitioners,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for Resource Technology corporation; ALLIED WASTE INDUSTRIES, INC.; and AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.
Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the Bankruptcy Court erred and violated Petitioners' due process rights by refusing to conduct an evidentiary hearing on Petitioners' Motion To Compel?

Whether the ADS Agreement (as defined below) was an executory, unexpired contract capable of being assumed and assigned?

Whether the lower courts erred by not considering the sole issue raised in Petitioners' Motion To Compel, *i.e.*, whether the Trustee's filing of a motion to assume and assign the ADS Agreement was sanctionable?

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1(b), the following list identifies all of the parties appearing here and before the United States Court of appeals for the Seventh Circuit.

The petitioners here and appellants below are Chiplease, Inc. and Scattered Corporation.

The respondents here and appellees below are Allied Waste Industries, Inc.; American Disposal Services of Illinois, Inc.; Jay A. Steinberg, as Chapter 7 Trustee for Resource Technology Corporation.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, Petitioners state as follows:

Petitioners Chiplease, Inc. and Scattered Corporation have no parent corporations. No publicly held company owns more than 10% of the stock of either Scattered Corporation or Chiplease, Inc.

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IN THE

Supreme Court of the United States

No. ___

CHIPLEASE, INC. and SCATTERED CORPORATION
Petitioners,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for Resource Technology corporation;
ALLIED WASTE INDUSTRIES, INC.; and
AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.
Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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OPINIONS BELOW

The opinion of the Court of Appeals for the Seventh Circuit is reported at 528 F.3d 467 and is reprinted in Petitioners' Appendix A.[1] The United States District Court for the Northern District of Illinois is reported at 2007 WL 898423 and is reprinted at Petitioners' Appendix B.

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[1] Petitioners' Appendix shall be referred to hereinafter as "Pet. App. __."

JURISDICTION

The Court of Appeals entered its judgment on May 15, 2008. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

This case involves provisions of the Bankruptcy Code, codified at 11 U.S.C. § 101, *et seq.*

STATEMENT OF THE CASE

This appeal is from a judgment of the Court of Appeals for the Seventh Circuit Court of Appeals affirming the decision of the United States District Court for the Northern District of Illinois. That decision affirmed an order of the United States Bankruptcy Court for the Northern District of Illinois denying, in part, Petitioners' motion to compel a Chapter 7 trustee to seek to assume and assign an executory contract.

A. Factual Background

Resource Technology Corporation ("RTC") and American Disposal Services, Inc. ("ADS") entered into an agreement dated December 21, 1995 (the "ADS Agreement") under which RTC was granted the right to develop and install landfill gas-to-energy projects at landfills in Pontiac, Illinois; Clarion, Pennsylvania; Wheatland, Kansas and Wyandot, Ohio. Pet. App. C. The ADS Agreement had a ten (10) year term but contained an option for RTC to renew the agreement for an additional five (5) year term on notice of not less than thirty (30) days before the expiration of the agreement. *Id.* The expiration date under the agreement was December 21, 2005. *Id.*

On November 15, 1999, certain creditors of RTC filed an involuntary bankruptcy petition against RTC in the United States Bankruptcy Court for the Northern District of Illinois, pending under case no. 99B35434. By order dated December 18, 2001, the Bankruptcy Court authorized RTC to borrow $53 million from Aquila Energy Capital Corporation ("Aquila"). Pet. App. D. Among Aquila's collateral were all property and assets relating to RTC's facility in Pontiac, Illinois. *Id.* On January 4, 2002, RTC and Allied, as alleged successor to ADS, entered into a stipulation for RTC's assumption of the portion of the ADS Agreement relating to the Pontiac landfill. Pet. App. E.

On or about April 10, 2002, RTC, Allied Waste Industries, Inc. ("Allied"), ADS and Aquila entered into a Consent And Agreement (the "Consent"). Pet. App. F. Among other things, the Consent (i) acknowledged Aquila's security interest in RTC's property and assets; (ii) allowed for the substitution of Aquila to RTC's rights under the ADS Agreement (including a 120-day cure period for nonmonetary defaults); (iii) permitted Aquila the right to cure any default by RTC under the ADS Agreement; (iv) entitled Aquila to notice under the Consent; and (v) prohibited termination of the ADS Agreement without the prior written consent of Aquila. *Id.*

On September 27, 2005, Jay A. Steinberg was appointed Chapter 7 trustee (the "Trustee") for RTC. On or about November 8, 2005, the Trustee filed a Motion To Extend Time To Assume Or Reject Executory Contracts And Unexpired Leases of Non-Residential Real Property seeking, *inter alia*, an extension of time to assume or reject the ADS Agreement as well as an extension of the December 21, 2005

deadline to renew the agreement. Pet. App. G. On November 17, 2005, the Bankruptcy Court entered an order granting the relief sought in the Trustee's November 8, 2005 motion. Pet. App. H.

On or about November 30, 2005, the Trustee and Allied Waste Industries, Inc., as alleged successor in interest to ADS, entered into an Agreed Order Extending The Deadline For The Trustee To Assume Or Reject Executory Contracts And Unexpired Leases With American Disposal Services, Inc. And Allied Waste Industries, Inc., by which the Trustee and Allied extended the date for assumption or rejection of the ADS Agreement to January 31, 2006. Pet. App. I.

On or about January 18, 2006, the Trustee filed its Fourth Motion Of Chapter 7 Trustee For An Order To Extend Time To Assume Or Reject Certain Executory Contracts And Unexpired Leases Of Nonresidential Real Property. Pet. App. J. On January 27, 2006, the Bankruptcy Court entered an order granting the motion, thereby extending to February 28, 2006 the Trustee's time to assume or reject contracts, including the ADS Agreement. Pet. App. K.

On or about February 2, 2006, Petitioner Scattered filed a notice of the transfer of Aquila's claim in RTC's case from Aquila to Petitioner Scattered. Pet. App. L.

On or about February 21, 2006, the Trustee filed a Fifth Motion To Extend Time To Assume Or Reject, asking for relief similar to that of the fourth motion and including the ADS Agreement. Pet. App. M. The Bankruptcy Court continued that motion to be heard on March 16, 2006. On March 16, 2006, the Bankruptcy Court entered an order extending to April 28,

2006 the date for the Trustee to take action under the executory contracts, including the ADS Agreement. Pet. App. N.

By order dated March 16, 2006, the Bankruptcy Court approved a settlement agreement (the "Settlement Agreement") between RTC's creditors, Scattered Corporation and Chiplease, Inc. (together, "Petitioners"), and the Trustee, whereby the Trustee sold to Petitioners certain assets and interests, and the parties settled various disputes between them. Pet. App. O.

As part of the Settlement Agreement, the Trustee and Petitioners also entered into, and the Bankruptcy Court approved, a Designation Rights Agreement, whereby Petitioners would designate contracts for which the Trustee would be required to file a motion to assume and assign such contracts to Petitioners. *Id.* Petitioners would not have the right to designate any contract that has previously been terminated by a final bankruptcy court order or if the Trustee believed in good faith that a particular designation would result in the Trustee being subject to allegations of bad faith. *Id.* However, Petitioners would have the right to move the Bankruptcy Court to compel the Trustee to move to assume and assign a specific contract to them. *Id.* The Settlement Agreement included a reference to the ADS Agreement as an "executory contract." *Id.*

Pursuant to the Designation Rights Agreement, and as successor to Aquila, Petitioners on April 27, 2006 designated certain contracts for the Trustee to assume and assign to them, including the ADS Agreement. Accordingly, by letter dated April 28, 2008, RTC informed ADS of Petitioners' designation of the ADS Agreement for assumption and assign-

ment, with cure costs to be determined, and provided notice to ADS that Petitioners sought to extend the agreement to December 21, 2005, *i.e.*, an additional ten-year term. Pet. App. P.

On or about April 28, 2006, the Trustee filed two motions: (i) Motion Of Chapter 7 Trustee To Assume And Assign Certain Executory Contracts Subject To Court Approval Of: (1) Demonstration By The Designee Of The ability To Pay Cure Costs; (2) Demonstration By The Designee Of Adequate Assurance Of Future Performance; (3) Assumption; And (4) Assignment; and (ii) Motion Of Chapter 7 Trustee To Determine Propriety Of Assumption And Assignment Of Certain Agreements And Extension Of Time To Assume Or Reject Such Agreements. Pet. App. Q-R. Both motions included the ADS Agreement. *Id.* The Bankruptcy Court continued the motions to be heard on May 9, 2006 and then again to be heard on June 13, 2006.

Allied and other contract parties objected to the Trustee's motion to assume and assign their contracts. Neither ADS nor Allied gave notice to Petitioner Scattered of any expiration or termination of the ADS Agreement, as required under the Consent. On May 12, 2006, the Trustee delivered to Petitioners a written notification identifying the ADS Agreement as one of the contracts he was unwilling to move to assume and assign to Petitioners.

On or about May 26, 2006, Petitioners filed a motion to compel (the "Motion To Compel") the Trustee to assume and assign certain contracts, including the ADS Agreement, to it. Pet. App. S. Allied took the position that the ADS Agreement had terminated prior to RTC's bankruptcy or, at the very least, that it expired by its terms on December 21, 2005, and

thus, could not be assumed and assigned. Petitioners requested, but were denied, an evidentiary hearing before the Bankruptcy Court on the Motion To Compel. Petitioners were prepared to introduce into evidence, among other things, the April 28, 2006 letter notifying ADS that RTC elected to extend the ADS Agreement, sent within 120 days as required under the Consent. On June 29, 2006, the Bankruptcy Court entered an order (the "Order") denying the Motion To Compel. Pet. App. T.

B. Proceedings Below

Petitioners filed a notice of appeal of the Order. On March 20, 2007, the United States District Court for the Northern District of Illinois entered an order affirming the Order. Petitioners then filed an appeal with the Court of Appeals for the Seventh Circuit. On May 15, 2008, the Court of Appeals entered judgment affirming the District Court.

REASONS FOR GRANTING THE PETITION

I. The Bankruptcy Court's refusal to conduct an evidentiary hearing on the Motion To Compel violated Petitioners' due process rights.

To the continuing shock of Petitioners, the courts below fail to recognize that the fundamental right to due process mandated a trial on Petitioners' Motion To Compel. Petitioners submit that the refusal to conduct a trial was effectively a death sentence to the largest asset of RTC's bankruptcy estate.

The Fifth and Fourteenth Amendments to the United States Constitution afford the right of due process to persons in all 50 states. The concept of "procedural due process" has evolved to require that a person be given notice and an opportunity to be heard

before being deprived of his property. *See e.g., Carey v. Piphus*, 435 U.S. 247, 259, 98 S.Ct. 1042 (1978). To have a protectable property interest, a person must have a legitimate claim of entitlement to the property. *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577, 92 S.Ct. 2701 (1972). "It is a purpose of the constitutional right to a hearing to provide an opportunity for a person to vindicate those claims." *Id.*

For good reason, due process is incorporated into the bankruptcy procedural rules. Federal Rule of Bankruptcy Procedure 9014(a) provides, in pertinent part, that "'[I]n a contested matter not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Rule 9014(c) provides that the Federal Rules of Civil Procedure, incorporated into the Federal Rules of Bankruptcy Procedure, apply to contested matters. Where a party requests an evidentiary hearing and there are disputed facts, an evidentiary hearing is warranted. *In re Gonzalez-Ruiz*, 341 B.R. 371, 381 (1st Cir. BAP 2006)

As evidenced by Aquila's loan to RTC and subsequent negotiation and execution of the Consent, the ADS Agreement and RTC's projects at the facilities thereunder were among the biggest assets of RTC's bankruptcy estate. As successor to Aquila's claims in RTC's case and rights under Aquila's agreements, Petitioner Scattered is the biggest creditor. It immediately recognized the import of these assets and sought to enforce the rights it inherited from Aquila under the Consent and the ADS Agreement by, *e.g.*, (a) designating the ADS Agreement for assumption and assignment by the Trustee to them; and (b)

causing RTC to inform ADS of its desire to extend the agreement for a ten-year term pending assumption and assignment of the ADS Agreement (and the necessary cure of any defaults). At the same time, Petitioners also relied upon the Trustee's Bankruptcy Court-approved extensions of time with respect to the ADS Agreement.

The Motion To Compel raised material issues of fact, namely whether the Trustee's conduct and intentions with respect to the extensions of time he sought—and his initial attempt at assuming and assigning the ADS Agreement to Petitioners—created a good faith belief that a motion to assume and assign the ADS Agreement would not be sanctionable. Petitioners requested an evidentiary hearing on the Motion To Compel, intending to offer evidence as outlined immediately above. They were at risk of losing their property—namely, their rights in the ADS Agreement and the Consent.

The Bankruptcy Court denied Petitioners' request for a hearing, thereby depriving Petitioners of their property right without an opportunity to be heard. The Bankruptcy Court improperly treated the motion as a discrete legal issue that could be disposed of without hearing evidence or making findings of fact.

Assuming *arguendo* that the Bankruptcy Court was justified in ruling on the merits of the ADS Agreement—instead of merely whether the Trustee's filing a motion to assume it was sanctionable, as argued below—then the Bankruptcy Court in any event should have conducted an evidentiary hearing, allowed Petitioners to take testimony and made findings of fact because the Motion To Compel initiated a contested matter. *Sunflower Racing, Inc. v. Mid-Continent Racing & Gaming Co. (In re Sunflower*

Racing, Inc.), 226 B.R. 665, 671 (D. Kan. 1998). In accordance with Petitioners' due process rights under the U.S. Constitution, the appellate courts should have reversed and remanded for a trial on the Motion To Compel.

II. The ADS Agreement was an executory, unexpired contract capable of being assumed and assigned.

The Bankruptcy Code permits a trustee or debtor, subject to court approval, to assume or reject any executory contract of the debtor. 11 U.S.C. § 365(a), (b). After successful assumption of an executory contract, the trustee or debtor may assign such contract to another party if certain additional conditions are met. *Id.* at § 365(f). In Chapter 7, an executory contract is deemed rejected if not assumed within 60 days after the order for relief is entered, or within such additional time as the court permits. *Id.* at § 365(d)(1). In Chapter 11, the debtor or trustee has until plan confirmation to assume or reject executory contracts. *Id.* at § 365(d)(2).

An "executory contract" is not defined in the Bankruptcy Code. Courts generally have defined it as a contract under which the obligations of both parties remain so far unperformed that the failure of either party to complete its performance would constitute a material breach. *See e.g., In re General DataComm Indust., Inc.*, 407 F.3d 616 (3d Cir. 2005).

A. The Bankruptcy Court's extensions of time by which the Trustee could assume or reject the ADS Agreement resulted in renewal of the agreement.

When the Trustee was appointed in RTC's case, the ADS Agreement had not expired. As detailed above,

on numerous occasions the Trustee successfully moved the Bankruptcy Court to extend the time by which he could assume or reject the ADS Agreement. Allied even agreed to extend the deadline for assuming or rejecting the agreement. Then RTC notified ADS of its intent to extend the ADS Agreement for an additional ten-year term—and cure defaults—in view of the Trustee's April 28, 2006 motion to assume and assign. The crucial question that no lower court or Allied has been able to answer throughout these proceedings is: What was the point of continually extending the time to assume or reject the ADS Agreement if the agreement had expired by its own terms? The orders approving the extensions of time in which to assume or reject the ADS Agreement would have been meaningless if the agreement already had expired.

The answer is that these extensions in fact were intended to constitute a renewal of the ADS Agreement, making it ripe for assumption or rejection. In *M.K. Labs, Inc. v. Int'l. Developers (In re M.K. Labs, Inc.)*, 86 B.R. 12, 14 (Bankr. D. Conn. 1988), the court found that a debtor's right to renew a lease remained viable, although the renewal period had expired prepetition, when the landlord consented to an extension of time for the debtor to assume or reject the lease. The court found that the landlord had impliedly consented to an extension of time for the debtor to renew the lease. *Id.* As argued more fully below, when the Trustee originally moved to assume and assign the ADS Agreement, he had a good faith basis to believe that his action was supported by applicable case law as well as by Allied's failure to object to the extensions previously sought by the Trustee's motions.

B. Allied should have been estopped from arguing that the ADS Agreement terminated.

Waiver is the "intentional relinquishment or abandonment of a known right." *United States v. Sumner*, 265 F.3d 532, 537 (7th Cir. 2001). A waiver can be explicit or implicit. A party waives an argument if it is not raised at the proper time. *In re Kontrick*, 295 F.2d 724 (7th Cir. 2002).

Moreover, a creditor is estopped from terminating valuable contract rights where the creditor's conduct led the debtor (or trustee) to believe the rights would not be terminated, where the debtor (or trustee) relied on the creditor's conduct or words, and where termination would result in injury to the estate. *Braniff Inc. v. GPA Group PLC (In re Braniff, Inc.)*, 118 B.R. 819, 842 (Bankr. M.D. Fla. 1990).

Below, Petitioners asked the Bankruptcy Court to find that Allied was estopped from arguing that the ADS Agreement terminated on December 21, 2005 due to the Trustee's non-renewal of it. The Trustee had been appointed shortly before then, in September 2005, and would have had insufficient time to evaluate whether to assume or reject the ADS Agreement. Indeed, moving to extend his time to do so—as he first did by the November 8, 2005 motion—would afford him time to make that decision.

Meanwhile, Allied sat on its hands. It did not object to the Trustee's November 8, 2005 motion to extend time to assume or reject contracts, despite the facts that (a) the ADS Agreement and its December 21, 2005 expiration date were mentioned in that motion; (b) the ADS Agreement required that a notice of intent to extend it be served upon the other party

by November 21, 2005, which was fast approaching; and (c) neither ADS nor Allied ever gave notice to Petitioner Scattered (as successor to Aquila) of any expiration or termination of the ADS Agreement, which notice was required under the Consent.

More significantly, Allied entered into the November 30, 2005 Agreed Order with the Trustee, which extended his time to assume or reject the agreement through January 31, 2006. The November 30, 2005 date of that agreed order was entered nine (9) days after the November 21, 2005 deadline required for notice of intent to extend the agreement. Allied's agreement to extend to January 2006 the time for the Trustee to assume or reject the ADS Agreement would be completely meaningless if Allied intended to argue that the agreement expired in any event on December 21, 2005. Allied actions were completely contradictory. Petitioners should have been permitted to examine witnesses relating to the Trustee's intentions with respect to the extensions of time, their interest in the Consent and the ADS Agreement, Allied's contradictory conduct and the substantial deprivation of property that would result to Petitioner Scattered as Aquila's successor in interest.

III. The lower courts should have considered only whether the Trustee's filing of a motion to assume and assign the ADS Agreement was sanctionable.

In *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993), the Second Circuit held that it was error for the bankruptcy court to decide a disputed factual issue in the context of determining whether a debtor or trustee should be permitted to assume a contract.

The court of appeals stated that it found nothing in Bankruptcy Code Section 365 providing for authorization to "resolve questions involving the validity of contracts before deciding whether to permit the trustee . . . to assume the contracts." *Id.* The court further found that the bankruptcy court erred because:

> [I]t misapprehended the fundamental nature and purpose of a motion to assume. At heart, a motion to assume should be considered a summary proceeding, intended to efficiently review the trustee's or debtor's decision to adhere to or reject a particular contract in the course of the swift administration of the bankruptcy estate. It is not the time or place for prolonged discovery or a lengthy trial with disputed issues.

Id. at 1098-99.

Under the Designation Rights Agreement, the Trustee was required to file a motion to assume and assign any RTC estate contracts designated by Petitioners unless "the [Estate] believes in good faith that a particular designation will result in the [Estate] being subject to allegations of bad faith, but [Petitioners] shall have the right to petition the Court to compel the [Estate] to comply with [Petitioners'] direction to designate."

Whether or not the Trustee had a good faith basis to pursue assumption and assignment of the ADS Agreement to Petitioners is governed by Federal Rule of Bankruptcy Procedure 9011. Rule 11 provides that an attorney's signature on a filing represents:

> to the best of the attorney's or party's knowledge, information, and belief formed after reasonable inquiry under the circumstances, (1) it is not being presented for any improper purpose, such

> as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support, or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Thus, under Rule 11, an attorney is required to make a reasonable inquiry before filing a document. "The determination of the reasonableness of an attorney's inquiry necessarily depends upon the circumstances of the particular case." *In the Matter of Excello Press, Inc.*, 967 F.2d 1109, 1112-13 (7th Cir. 1992). The party or attorney can be sanctioned if it proceeded in bad faith or failed to conduct a reasonable inquiry into the facts and law before filing its claim. *American Express v. Baker*, 213 B.R. 834, 838 (N.D. Ill. 1997).

The Motion To Compel sought only a determination that the Trustee must seek assumption of the ADS Agreement and that such action would not be sanctionable. The motion thus complied with the procedures of the Designation Rights Agreement but did not request a determination of the substantive question of whether the ADS Agreement could be extended.

Despite the Motion To Compel's clear request and the plain terms of the Designation Rights Agreement, the Bankruptcy Court prematurely ruled on the merits of whether the ADS Agreement could be extended—and then found that it could not. In short, the Bankruptcy Court went beyond the issue presented by the Motion To Compel and deprived Petitioners of their property interest in the ADS Agreement and the Consent without hearing evidence or making factual findings, all in violation of Petitioners' due process rights. While the Trustee and Petitioners ultimately might have failed on the merits of a motion to assume and assign the ADS Agreement, that is the point of due process. The appellate courts should have reversed and remanded for a trial on the Motion To Compel.

CONCLUSION

For the reasons above, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
SEVENTH CIRCUIT

No. 07-1879

IN RE RESOURCE TECHNOLOGY CORPORATION,
Debtor.

CHIPLEASE, INC. AND SCATTERED CORPORATION,
Plaintiffs-Appellants,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for Resource Technology Corporation, *et al.*,
Defendants-Appellees.

Argued Dec. 7, 2007
Decided May 15, 2008

Before POSNER, ROVNER, and WILLIAMS, *Circuit Judges.*

ROVNER, *Circuit Judge.*

Plaintiffs-appellants Chiplease, Inc. and Scattered Corporation (collectively, "Scattered") wanted to step into the shoes of debtor Resource Technology Corporation ("RTC") in a contract that RTC had with American Disposal Services of Illinois, Inc. ("ADS"). After the trustee of RTC's estate refused to seek the bankruptcy court's permission to assume the ADS agreement and assign it to Scattered, Scattered asked the bankruptcy court to compel the trustee to do so. The bankruptcy court denied Scattered's

request, concluding that the agreement had already expired and that a motion by the trustee to assume the agreement would consequently be frivolous and subject to sanctions. Scattered appealed to the district court, which affirmed the bankruptcy court's decision. *Chiplease, Inc. v. Steinberg (In re Resource Tech. Corp.)*, No. 06 C 5541, 2007 WL 898423 (N.D.Ill. Mar.20, 2007). Scattered again appeals, and we affirm.

I.

RTC is a Delaware corporation that installs collection systems at landfills to capture the methane gas created by degrading waste and then either uses it to fuel electric generators and produce electricity or sells the gas to others. In December 1995, RTC entered into a contract with ADS pursuant to which RTC committed to build and operate gas-to-energy facilities at four ADS landfills in Pontiac, Illinois, Wheatland, Kansas, Wyandot, Ohio, and Clarion, Pennsylvania (hereinafter, the "agreement" or the "ADS agreement"). The agreement was for an initial term of ten years, expiring on December 21, 2005. RTC had a right to extend the agreement beyond this term (provided that the parties had not already terminated their arrangement) for up to three consecutive periods of five years. In order to exercise its right to extend the agreement beyond its initial term, RTC was required to send ADS by certified or registered mail written notice of its intent to renew at least thirty days prior to the December 21, 2005 expiration date, *i.e.*, no later than November 21, 2005. Allied Waste Industries ("Allied") later succeeded to ADS's rights under this agreement.

In 1999, RTC was placed involuntarily into Chapter 7 bankruptcy by certain of its creditors. RTC

converted the proceeding to a Chapter 11 reorganization. RTC subsequently assumed that portion of its agreement with Allied relating to the landfill in Pontiac, Illinois, *see* 11 U.S.C. §§ 365(a), 1107(a), but did not assume the balance of the agreement concerning landfills in Wheatland, Wyandot, and Clarion. In September 2005, on the motion of several creditors, then-Chief U.S. Bankruptcy Judge Eugene Wedoff converted the case back to a Chapter 7 proceeding and appointed Jay A. Steinberg as the trustee of RTC's estate.

On November 16, 2005, the trustee's counsel wrote to counsel for Allied seeking to extend the deadline by which the ADS agreement could be renewed. The letter sought Allied's agreement to move the renewal deadline from November 21, 2005 to December 31, 2005. Allied's counsel replied on November 19, 2005, agreeing to the extension through December 31, 2005 insofar as the Pontiac landfill was concerned. Counsel added that it was Allied's view that the agreement had already terminated as to the three other landfills outside of Illinois (Wheatland, Wyandot, and Clarion). She therefore noted that Allied was consenting to the trustee's request for an extension of time to renew the ADS agreement only insofar as RTC had any remaining rights under that agreement and without prejudice to Allied's position that all but the Pontiac portion of the agreement had terminated. *Id.*

Although the deadline for renewing the Pontiac portion of the ADS agreement had thus been extended, the final day of 2005 came and went without any renewal of the agreement. Nor did the parties agree to any further extensions of the renewal date.

In March 2006, the Trustee entered into a settlement agreement with Scattered, among other entities, resolving certain disputes (the "settlement"). That agreement was subsequently approved by the bankruptcy court. Pursuant to the court's order approving the settlement, Scattered obtained the right to designate certain of RTC's contracts that Scattered wanted to take over. Once Scattered designated a contract in which it was interested, the trustee would seek the bankruptcy court's permission to assume the contract and, upon securing that authority, assign the contract to Scattered pursuant to sections 365(a) and (f) of the Bankruptcy Code. However, the order provided further that Scattered "shall not have the right to designate any Contract . . . if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant to Fed. R. Bankr.P. 9011 or allegations of bad faith. . . ." In the event that the trustee refused to pursue assumption and assignment of a contract on that basis, the settlement entitled Scattered to ask the bankruptcy court to compel the trustee to assume and assign the contract in question.

Prior to the execution and court approval of the settlement, the trustee had sought and obtained from the bankruptcy court a series of extensions of time in which to assume or reject executory contracts and unexpired leases. The first of these motions was filed on November 8, 2005. In it, the trustee sought an extension of time until January 31, 2006, to assume or reject a number of contracts, among them the ADS Agreement. The motion indicated that the ADS agreement was set to expire on December 21, 2005, and that there was a deadline of November 21, 2005 by which date notice of an intent to extend the

contract had to be sent. The motion did not seek an extension of the life of the ADS agreement itself, only an extension of time for the trustee to assume or reject that contract and the others listed in the motion. Indeed, at the hearing on the motion, when Judge Wedoff inquired, "If [a] contract was terminated . . . , what more can be done?", the trustee's counsel responded, "If a contract was terminated, then it's terminated." In that vein, the trustee acknowledged Allied's position that a number of its agreements with RTC, including portions of the ADS agreement concerning facilities other than the Pontiac facility, had already been terminated. For that reason, the Trustee's request to assume the balance of the ADS agreement was continued. Following that hearing, the bankruptcy court on November 17, 2005, entered an order granting the trustee's motion and thereby extending until January 31, 2006, the time in which the trustee could assume or reject the Pontiac portion of the ADS agreement. The attachment to that order listing the contracts as to which time had been extended again indicated that the Pontiac portion of the ADS agreement was set to expire on December 21, 2005, and that the trustee had until November 21, 2005, to send a notice of his intent to extend the term of that contract. As we noted above, on November 19, 2005, Allied's counsel agreed to the trustee's request that the renewal deadline for ADS agreement be extended until December 31, 2005.

Subsequently, on November 30, 2005, the bankruptcy court entered a second order, this one expressly agreed to by and between the trustee and Allied, extending the trustee's time to renew or reject all portions of the ADS agreement until January 31, 2006. The text of that order expressly acknowledged

Allied's position that all but the Pontiac portion of the ADS agreement had already terminated and preserved Allied's right to so assert in future proceedings.

Scattered points out that there were two additional orders that granted extensions of time to the trustee for purposes of assuming or rejecting unexpired contracts and leases. On or about January 18, 2006, the trustee sought an extension of time to assume or reject from January 31, 2006 to February 28, 2006. The attached list of contracts as to which the trustee sought the extension included several contracts relating to the Pontiac facility, but not the Pontiac portion of the ADS agreement. Interestingly, the trustee did seek additional time to assume or reject the portions of the ADS agreement concerning the Wheatland, Wyandot, and Clarion landfills. And when the parties appeared before the bankruptcy court for the hearing on the motion, Allied's counsel objected to the request for more time on the ground that these portions of the agreement had already been terminated. Judge Wedoff made the following remarks concerning Allied's objection and a similar objection raised by the City of Columbus:

> THE COURT: [W]hat will happen, Ms. Gelman [counsel for Allied], is that I can grant this motion. And if the trustee should hereafter attempt to assume a contract that's already been terminated, I am sure you will let me know. And I am also sure that Mr. Steinberg wouldn't waste his time trying to assume an already terminated contract. So I think it is safe to grant this motion.
>
> MS. RZEPKA: Your Honor, Natalia Rzepka for the City of Columbus. I just wanted to state our

objection on the record. I believe Your Honor denied the debtor's motion to assume our contract back in 2003.

THE COURT: Right. It's covered by the same remarks that I just made.

MS. RZEPKA: Yes.

THE COURT: All that is happening here is that to the extent the trustee does have unexpired leases or unterminated executory contracts, this preserves the trustee's right to assume or assign those contracts. It would otherwise be cut off, and the contracts would be deemed rejected. If you've got a contract that's already terminated, it's not going to be affected by an extension.

The bankruptcy court's decision to grant the trustee's motion was memorialized in an order dated January 27, 2006; and, consistent with the trustee's motion, the attached list of contracts as to which the extension of time was being granted did not include the Pontiac portion of the ADS agreement. In accord with the court's remarks at the hearing on the motion, the order contained the following provisions qualifying the nature of the extension that the court was granting to the trustee:

1. With respect to certain landfills identified on Exhibit A which are owned by American Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively, along with its respective subsidiaries and affiliates, "Allied"):

(a) In regards to that portion of the December 21, 1995 contract involving the Wheatland, Clarion, and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent

> RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), the time by which the Trustee can move to assume or reject the Disputed Contract Site portion of the contract is extended to February 28, 2006.
>
> * * *
>
> 5. Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such contracts may have that such contracts have expired and/or been terminated prior to the date of this Order.

The following month, as the February 28, 2006 deadline for assumption or rejection of these contracts approached, the trustee sought another extension of time to April 28, 2006. Again, although other Pontiac-related contracts were included in the list of contracts as to which the trustee was seeking additional time, the Pontiac portion of the ADS agreement was not among them. The court granted that motion on March 16, 2006. Its order contained the same qualifying language as the January 27 order.

It was also on March 16, 2006, that the bankruptcy court signed the order approving the settlement between Scattered (among other parties) and the trustee that gave Scattered the right to designate various contracts for assumption and assignment by the trustee. Scattered subsequently designated the ADS agreement as one of the contracts that it wished

to assume. But the trustee's counsel, in the face of objections from Allied that the ADS agreement had by this time expired in its entirety, wrote to Scattered's counsel on May 12, 2006, to inform Scattered that the trustee would not seek to assume the ADS agreement (among others) unless compelled to do so by the district court. Scattered proceeded to file a motion asking the bankruptcy court to do just that. Allied objected, contending that because the ADS agreement had expired by its terms on December 31, 2005, it could not be assumed as a matter of law, and consequently the trustee, if he sought to assume the contract, would be exposed to sanctions under Bankruptcy Rule 9011 and allegations of bad faith.

The bankruptcy court heard Scattered's motion on June 13, 2006 and concluded that because the trustee had no plausible basis on which to assume the ADS agreement, which had clearly expired, he had properly refused Scattered's demand to seek assumption. The ADS agreement was one of a number of agreements as to which the trustee had declined to file motions to assume and that were consequently the subject of motions to compel. The essential inquiry, as the court acknowledged at the start of the hearing, was whether the trustee would be making a frivolous motion, subject to sanctions under Rule 9011, were he to move to assume these contracts.

> The underlying question with all of these is whether the trustee is reasonably asserting that to pursue a motion here would violate the trustee's obligations under Rule 9011, and so the question here is whether the trustee has a good basis for believing that pursuing an assumption here would violate 9011.

The court went on to agree with Allied's counsel that the ADS agreement had expired on December 31, 2005, with the result that there was no longer a valid contract for the trustee to assume and assign to Scattered. The court rejected the suggestion of Scattered's counsel that a hearing was required in order to determine whether the extensions of time the court had granted the trustee to assume or reject the agreement had also extended the time to renew the agreement.

> There is . . . no need for a hearing. The question that's being raised now is whether an order extending the time for assumption or rejection of an unexpired [contract] somehow has the effect of extending the [contract] or extending a deadline for renewal under the [contract]. Those really are two separate questions. And each time that there was a motion to extend the time for assumption or rejection, I heard arguments to the effect that this has already expired, to which my response was if it's already expired, extending the time for assumption or rejection will have no impact on the expiration.
>
> So given that we're dealing with two separate issues (1) whether the contract has expired and (2) whether the time for assumption or rejection of the contract can be extended, I think unless you can point to something, an agreement, an order of the court that extended the time for extending the contract under the contract terms, there is no basis for the trustee to assume this contract.

When pressed to identify any court order or agreement extending the renewal date of the ADS agreement beyond its expiration date of December

31, 2005, Scattered's counsel could point only to the orders granting the trustee's requests for additional time to assume or reject the contract. The court rejected the notion that those orders might have extended the life of the agreement:

> Okay. I don't think so. We have always made a distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated. And given that there is that distinction, which, again, was repeatedly made as I granted motions to extend the time for the trustee to assume or reject, the distinction was always made that granting the motion in no way implied that the underlying agreement had not terminated. That was always a separate consideration. If there is nothing that prevents the expiration of the underlying agreement according to its terms other than an allegation that an order extending the time for the estate to assume or reject is in place, the trustee does not have a basis for going forward on it.

When Scattered's attorney suggested that the trustee might nonetheless have understood or have intended for these orders to extend the renewal date, the court pointed out that the trustee's subjective and unilateral understanding would not have been sufficient to override the terms of the orders and the underlying contract. Acknowledging that a bilateral agreement between the trustee and Allied would have been necessary to extend the life of the agreement, Scattered's counsel suggested that there might be a factual question as to whether Allied too had intended for the orders to extend the renewal date;

but the court found no basis to support such a question:

> No, you're not going to find anything, I am confident, in the record where Allied's counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. They've been here vociferously arguing for a substantial period of time that the agreement had terminated. And entering an order granting the trustee a right to continue the time for assumption or rejection has no impact on that. . . .

The court therefore denied Scattered's motion to compel the trustee to assume and assign the ADS agreement.

Scattered appealed to the district court, which affirmed the bankruptcy court's decision. The court first rejected Scattered's contention that the bankruptcy court, in determining whether the ADS agreement had expired, strayed beyond the issue that was actually before it, *i.e.*, whether the trustee had a good faith belief that he would be sanctioned under Rule 9011 if he sought to assume and assign the agreement as Scattered had demanded. "Though the court may not have used the magic words that appellants seem to think were necessary, it is clear that the court was considering the correct issue." 2007 WL 898423, at *3. The court observed that whether the agreement had expired was "intertwined" with the question of whether the trustee had a good faith basis for declining to pursue assumption of the agreement. *Id.*" [I]f there was no objectively reasonable argument that the ADS agreement had not expired, then the trustee could not properly

pursue an assumption and assignment of that agreement." *Id.* The court found no fault with the bankruptcy court's determination that the agreement had, in fact, expired. Scattered's argument to the contrary rested on the notion that the bankruptcy court's orders allowing the trustee more time to assume or reject the agreement somehow extended the life of the agreement, but the orders themselves offered no support for that notion. "Everyone but the appellants, it seems, understood the effect of the extension orders." *Id.* at *4. Finally, the court found no error in the bankruptcy court's denial of Scattered's request for an evidentiary hearing. "Appellants do not point to any evidence they would have introduced at an evidentiary hearing that would have affected the outcome of the motion to compel." *Id.* Although Scattered suggested that there were disputed questions of fact as to the intent of Allied and the trustee vis-à-vis the ADS agreement, their subjective intent was immaterial. There was no dispute as to the relevant provisions of the agreement or as to the orders granting the trustee additional time to assume or reject the agreement. Consequently, even assuming that extrinsic evidence as to the parties' subjective understanding of those matters would have been admissible, it would not have had any bearing on the bankruptcy court's resolution of the motion to compel. *Id.*

II.

Our first task is to confirm that we have jurisdiction to hear this appeal, *e.g.*, *JMS Dev. Co. v. Bulk Petroleum Corp.*, 337 F.3d 822, 825 (7th Cir.2003), and we are satisfied that we do. 28 U.S.C. § 158(d)(1) gives us jurisdiction to review "final" decisions of the district court resolving bankruptcy appeals. In this

case, the district court affirmed the bankruptcy court's order denying Scattered's motion to compel the trustee to assume and assign to Scattered a contract between Allied and the debtor, RTC. At least as of the time this appeal was briefed, there were other, unrelated agreements between Allied and RTC that Scattered wished the trustee to assume and assign, and the disputes over those agreements had not yet been resolved. Consequently, we cannot say the order at issue here is final in the sense that it conclusively resolved all of the claims of one creditor Scattered-against the estate. *See Golant v. Levy (In re Golant)*, 239 F.3d 931, 935 (7th Cir.2001); *In re Morse Elec. Co.*, 805 F.2d 262, 264 (7th Cir.1986); *see also Fruehauf Corp. v. Jartran, Inc. (In re Jartran, Inc.)*, 886 F.2d 859, 863 (7th Cir.1989). But the bankruptcy court's order does definitively resolve Scattered's unsuccessful attempt to have the trustee assume and assign one contract; and the issues raised with respect to that contract appear to be distinct and severable from the proceedings on other contracts between Allied and RTC. We see no reason why, consistent with the more flexible jurisdictional standard that we and other appellate courts apply to bankruptcy appeals, this matter cannot be resolved now, thereby advancing the ultimate resolution of RTC's bankruptcy. *See Golant*, 239 F.3d at 935. We may therefore proceed to the merits.

Scattered's threshold contention is that the bankruptcy court prematurely and improperly determined that the ADS agreement had expired. Under the terms of the settlement between Scattered and RTC, the essential question before the bankruptcy court was whether the trustee had a good faith belief that he would be subject to sanctions if he moved to assume the ADS agreement as Scattered wished him

to do. In Scattered's view, it was neither necessary nor appropriate for the court to resolve whether the ADS agreement had expired; all that the court needed to determine was whether a motion by the trustee to assume the agreement would be frivolous, and therefore subject to sanctions under Bankruptcy Rule 9011. *Cf Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098-99 (2d Cir.1993) (error for bankruptcy court to resolve factual disputes regarding alleged breach of contract, where only question properly before the court was whether debtor or trustee should be permitted to assume the contract); *but see In re White Glove, Inc.*, Nos. 98-12493DWS & 98-12494 WS, 1998 WL 731611, at *4 n. 12 (Bankr.E.D.Pa. Oct.14, 1998) (coll. cases questioning holding of *Orion Pictures*).

However, the record leaves no doubt that the bankruptcy court understood what the relevant inquiry was and properly answered it. The court not once but twice remarked that the underlying question posed by the motions to compel the trustee to assume various contracts was whether the trustee would be violating his obligations under Rule 9011 by moving for assumption. With respect to the ADS agreement, the trustee's concern about Rule 9011 sanctions arose from the apparent expiration of the agreement. Scattered itself agrees that "[i]f the ADS Agreement expired, there would be nothing for the Trustee to assume or reject." Scattered Br. 13. *See* R. Ginsberg & R. Martin, GINSBERG & MARTIN ON BANKRUPTCY § 7.01[C], at 7-8 n. 37 (4th ed.1995) (updated & current through 2007) ("Of course, if the executory contract (or lease) expires by its own terms during the postpetition, preassumption/ rejection period, the trustee will have nothing to

assume or reject."). Scattered is certainly correct in contending that the susceptibility of a claim (or argument) to sanctions under Bankruptcy Rule 9011 or Federal Rule of Civil Procedure 11 does not necessarily require resolution of the merits of the underlying claim. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 396, 110 S.Ct. 2447, 2456, 110 L.Ed.2d 359 (1990) (order imposing Rule 11 sanctions "does not signify a district court's assessment of the legal merits of the complaint"); *see also Willy v. Coastal Corp.*, 503 U.S. 131, 112 S.Ct. 1076, 117 L.Ed.2d 280 (1992) (court can impose Rule 11 sanctions even if, in retrospect, it lacked subject matter jurisdiction over merits of the case). But that does not mean that the question of sanctions can be divorced from the merits of the claim deemed sanctionable. Obviously, a court cannot determine whether a claim has a reasonable basis in law or fact, *see* Rule 9011(b)(2) and (3), without examining the legal and factual foundations of the claim; to that extent, the charge that a claim is sanctionable necessarily overlaps with the merits of the claim. *See Cleveland Hair Clinic, Inc. v. Puig*, 104 F.3d 123, 125 (7th Cir.1997); *City of E. St. Louis v. Circuit Court for Twentieth Judicial Circuit, St. Clair County, Ill.*, 986 F.2d 1142, 1143 (7th Cir.1993). Thus, in assessing whether the trustee had a good faith concern about sanctions, the court necessarily had to consider whether there was a plausible basis to argue that the ADS agreement had not, in fact, expired. That is precisely what the court did: it considered the parties' respective positions as to the expiration of the ADS agreement and concluded that there was no reasonable factual or legal basis for the contention that the agreement had not expired, such that the trustee could move to assume the contract without

fear of being exposed to sanctions. Scattered was not deprived of any right by the manner in which the court proceeded. The settlement between Scattered and the estate, and Scattered's motion to compel, put the propriety of a motion to assume the ADS agreement squarely in the bankruptcy court's hands. The court gave Scattered a full opportunity to identify a basis on which the ADS agreement could be thought not to have expired; the court simply found that none of the bases that Scattered identified was plausible.

Here as below, Scattered points to the orders extending the time for the trustee to assume or reject he ADS contract*476 as a basis for contending that the agreement had not expired; but we are no more persuaded than the lower courts were. These were the bankruptcy court's own orders, and we must defer to its understanding of what those orders accomplished unless its interpretation was unreasonable. *See Enodis Corp. v. Employers Ins. of Wausau (In re Consol. Indus.)*, 360 F.3d 712, 716 (7th Cir.2004). The language of these orders was limited to the time in which the trustee could assume or reject the agreement; nothing in any of the orders spoke of extending the time to renew the ADS agreement. Nor did the trustee, in moving for the entry of these orders, say anything about extending his time to renew the ADS agreement. There is a plain paper trail to the one instance in which the trustee did obtain an extension of time in which to renew the ADS agreement: in that instance, in accord with the provisions of the agreement, the trustee wrote to Allied's counsel and requested an extension from November 25, 2005 to December 31, 2005 to send notice of his intent to renew the Pontiac portion of the agreement. Allied agreed, and the renewal date was extended for that portion of the agreement. That

exchange demonstrates that the trustee was well aware of the process by which he could obtain additional time to renew the ADS agreement. Notably, the two orders granting the trustee additional time to assume or reject the Pontiac portion of the agreement—the first, entered on November 17, 2005, being a general order dealing with multiple agreements including the Pontiac portion of the ADS agreement, and the second, entered on November 30, 2005 dealing specifically with the Pontiac portion of the agreement—were entered prior to the extended deadline of December 31, 2005 for renewal of the Pontiac portion of the agreement. After December 31, 2005 came and went without renewal, the motions seeking additional time for the trustee to assume or reject the estate's contracts and leases made no further mention of the Pontiac portion of the agreement, nor did the orders granting those motions mention it. Additional extensions of time to assume or reject were sought as to other portions of the ADS agreement. But as to those portions of the agreement, Allied consistently took the position that the agreement had already been terminated. And for his part, the trustee from the beginning acknowledged that granting him an extension of time to assume or reject the agreement would not somehow revive a contract that had already been terminated. The court itself acknowledged the same, and its later orders memorialized that acknowledgment.

Scattered suggests that there are unexplored questions as to what the trustee's intent was in moving to extend the time to assume or reject-questions that Scattered thinks raise doubts as to whether the ADS agreement actually expired—but we disagree. Scattered offers no explanation as to why the trustee's (unexpressed) intent could have

any impact on the expiration of the agreement. *See, e.g., Sethness-Greenleaf, Inc. v. Green River Corp.*, 65 F.3d 64, 67 (7th Cir.1995) (applying Illinois law) ("Contractual obligations are created and defined by objective signals the parties exchange. Private expectations are of no consequence.") (citations omitted); *Midland Hotel Corp. v. Reuben H. Donnelley Corp.*, 118 Ill.2d 306, 113 Ill. Dec. 252, 515 N.E.2d 61, 65 (1987) ("defendant's subjective understanding of the terms of the contract is immaterial"); *Carey v. Richards Bldg. Supply Co.*, 367 Ill.App.3d 724, 305 Ill.Dec. 492, 856 N.E.2d 24, 27 (2006) ("it is commonly stated that undisclosed intentions are not relevant" in contract interpretation). Contrary to Scattered's contention, this is not a case like *M.K. Labs., Inc. v. Intl Developers (In re M.K. Labs., Inc.)*, 86 B.R. 12 (Bankr.D.Conn.1988), where the parties on two occasions, in stipulating to an extension of the debtor's time to assume or reject an unexpired lease, recited that the lease still had eleven more years to run when in fact the lease had only months left to run and the first option to extend the original term had already expired. Under that circumstance, the bankruptcy court concluded that the landlord either actually or impliedly had agreed not only to extend the debtor's time to assume or reject the lease, but to extend the option to renew the lease as well. *Id.* at 14. Here, there is no such manifestation of a shared belief as to the continued life of the ADS agreement. Allied from the beginning maintained that the ADS agreement had expired except as to the Pontiac facility; it agreed only to one extension of time to renew the Pontiac portion of the agreement; and once the extended renewal date as to the Pontiac facility passed without the trustee renewing that portion of the agreement, Allied contended that the entire

agreement had expired. The trustee plainly knew what was required to extend the life of the agreement but made no effort to do so beyond December 31, 2005. Any unexpressed belief on his part that the agreement survived beyond that date could not have trumped the unambiguous terms of the agreement or the unambiguous terms of the orders granting him additional time to assume or reject the ADS agreement.

Scattered also suggests that Allied may have somehow waived or become estopped from asserting the expiration of the ADS agreement, but the record bespeaks the contrary. As we have just said, Allied consistently took the position that all but the Pontiac portion of the ADS agreement had already been terminated before the trustee began seeking additional time to assume or reject the agreement, and once the extended renewal date of December 31, 2005, passed without the trustee renewing the Pontiac portion of the agreement, contended that that portion of the agreement had expired as well. Allied's counsel always maintained that the extensions of time to assume or reject could have no impact on the expiration of the agreement. Judge Wedoff expressly acknowledged that this had always been Allied's position, and his own remarks and orders in granting the trustee's motions for additional time to assume or reject recognized that these extensions would not revive an otherwise expired agreement. The notion that Allied somehow sat on its rights and could be precluded from arguing that the ADS agreement expired is untenable.

Finally, we, like the district court, reject Scattered's contention that the bankruptcy court was bliged to conduct an evidentiary hearing before denying its motion to compel the trustee to assume

and assign the ADS agreement. The notion that an evidentiary hearing was required assumes that the existing record as to the expiration of the ADS agreement was somehow ambiguous or incomplete and that additional evidence was necessary to fill in the gaps. But as we have discussed, nothing in the record before the bankruptcy court raised any doubt as to the expiration of the ADS agreement. Moreover, Scattered has never articulated what evidence it might present at such a hearing that would be relevant to the expiration of that agreement and to the trustee's good faith in refusing to seek the assumption of that agreement. Even when asked at oral argument, Scattered's counsel was unable to identify any evidence that it might have produced at such a hearing. *See, e.g., Laserage Tech. Corp. v. Laserage Labs., Inc.*, 972 F.2d 799, 804 (7th Cir.1992) (appellate argument as to district court's failure to conduct hearing waived where, *inter alia,* appellant did not identify what evidence court would have heard at hearing other than evidence already before the court). As the bankruptcy court itself concluded, no such hearing was necessary.

III.

As the district court held, the bankruptcy court committed no error in denying Scattered's motion to compel the trustee to assume and assign the ADS agreement. Because the agreement had expired and there was no plausible argument to the contrary, the trustee would have been violating his obligations under Bankruptcy Rule 9011 had he sought to assume the agreement. For these and the other reasons we have discussed, we AFFIRM the district court's judgment.

APPENDIX B

UNITED STATES DISTRICT COURT
N.D. ILLINOIS, EASTERN DIVISION

No. 06 C 5541

IN RE RESOURCE TECHNOLOGY CORPORATION,
Debtor.

CHIPLEASE, INC. AND SCATTERED CORPORATION,
Appellants,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for Resource Technology Corporation, Allied Waste Industries, Inc., and American Disposal Services of Illinois, Inc.,
Appellees.

March 20, 2007

MEMORANDUM OPINION AND ORDER

MATTHEW F. KENNELLY, *District Judge.*

On June 29, 2006, Chief Bankruptcy Judge Eugene Wedoff issued an order denying creditors Chiplease, Inc. and Scattered Corporation's motion to compel the Chapter 7 trustee of Resource Technology Corp. (RTC) to seek assumption and assignment of an agreement between RTC and American Disposal Services, Inc. (ADS). Chiplease and Scattered Corp. appeal from that order. For the reasons stated below, the Court affirms the bankruptcy judge's ruling.

Background

Before it was put into involuntary bankruptcy, RTC was in the business of collecting methane gas emitted from garbage landfills and converting it into usable energy. In 1995, RTC and ADS entered into an agreement pursuant to which RTC constructed and operated landfill gas-to-energy plants at four ADS landfills located in Pontiac, Illinois, Clarion, Pennsylvania, Wheatland, Kansas, and Wyandot, Ohio (ADS agreement). The ADS agreement had an initial term of ten years unless extended by the parties. To extend the agreement, RTC had to provide written notice of its intent to renew "by certified or registered mail . . . not less than thirty days prior to the expiration [of the term]," which was November 21, 2005. Appellee's Ex. A914.

RTC was put into involuntary Chapter 7 bankruptcy in 1999 and later converted the case to a Chapter 11 reorganization. RTC assumed the portion of the ADS agreement related to the Pontiac, Illinois landfill in 2002. In September 2005, RTC's bankruptcy case was reconverted to a Chapter 7 liquidation, and a trustee was appointed. On November 16, 2005, the trustee asked ADS to extend to December 31, 2005 the deadline by which the ADS agreement could be renewed. ADS agreed. Neither of the parties sought a further extension.

In March 2006, the trustee and appellants, who had various legal disputes with RTC, entered into a settlement agreement whereby the appellants would purchase certain RTC assets. The settlement agreement allowed appellants to designate executory contracts that the trustee would be required to assume and then assign to appellants or their designees. Appellants did not have the right "to designate

any Contract . . . if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant to Fed. R. Bankr.P. 9011 or allegations of bad faith."Appellee's Ex. F. ¶ 14. If the trustee refused to seek the bankruptcy court's approval to assume and assign a contract designated by appellants, appellants had the right to file a motion to compel the trustee to act.

On May 12, 2006, the trustee identified contracts, including the ADS agreement, that he would not move to assume and assign unless compelled by the bankruptcy court. The trustee informed appellants that he had received numerous objections regarding the assumption of these contracts, "particularly as to whether various contracts have terminted." Appellee's Ex. H at A. Among these objections was a letter from ADS informing the trustee that the ADS agreement had expired. On May 26, 2006, appellants moved the bankruptcy court to compel the trustee to assume the ADS agreement. On June 13, 2006, the court determined that the ADS agreement had expired and, therefore, the trustee would not have a good faith basis to assume the contract. Accordingly, the court denied the motion to compel.

Standard of Review

The Court reviews the bankruptcy judge's conclusions of law *de novo* but reviews his factual findings for clear error. *In re Sheridan*, 57 F.3d 627, 633 (7th Cir.1989)." The clearly erroneous standard . . . does not permit a trier of fact to be overturned 'simply because [the appellate court] is convinced it would have decided the case differently.'" *In re Bonnett*, 895 F.2d 1155, 1157 (7th Cir.1989) (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 573, 105 S.Ct. 1504, 84 L.Ed.2d 518 (1985)). Rather, if

"two permissible conclusions can be drawn, the factfinder's choice cannot be clearly erroneous." *Id.* (citing *EEOC v. Sears, Roebuck & Co.*, 839 F.2d 302, 309 (7th Cir.1988)). The bankruptcy court's interpretation of its own orders may not be reversed absent a "clear abuse of discretion." *Endois Corp. v. Employers Ins. of Wausau (In re Consolidated Indus. Corp.)*, 360 F.3d 712, 716 (7th Cir.2004) (quotation omitted).

Discussion

Appellants identify three issues that they claim require the reversal of the bankruptcy court's order: the bankruptcy court erred when it denied appellants' motion to compel; the bankruptcy court erred when it held that a motion by the trustee to assume the ADS agreement would be sanctionable; and the bankruptcy court erred when it refused to hold an evidentiary hearing on appellants' motion to compel. *See* Appellants' Brief at 2-3. Appellees dispute appellants' statement of the second issue; they argue that the bankruptcy court did not conclude that a motion to assume the ADS agreement would be sanctionable. Rather, they say, the issue before the bankruptcy court was whether the trustee "believe[d] in good faith" that assumption of the ADS contract would subject it to sanctions pursuant to Bankruptcy Rule 9011. Appellees' Brief at 1. In their reply brief, appellants appear to concede that this is the proper inquiry. Reply Brief at 1, 3. Though appellants identify three issues, the second is really a subset of the first, as it is one basis for appellants' contention that the bankruptcy court should have granted its motion to compel. Accordingly, the Court will address appellants' arguments that the bankruptcy court erred by denying their motion to compel and by refusing to hold an evidentiary hearing.

1. Appellants' motion to compel

Appellants argue that the bankruptcy court erred by addressing the issue of the expiration of the ADS agreement. They say that the issue properly before the court was whether the trustee had a good faith basis to believe that pursuing an assumption and assignment of the agreement would subject him to Rule 9011 sanctions. According to appellants, this threshold issue differed from the ultimate determination of the merits that, they say, the bankruptcy court made. In other words, appellants say, the court "was only required to determine whether the Trustee could present an argument in favor of assumption and assignment without subjecting himself to sanctions," not "that the ADS agreement could [actually] be assumed."Reply Brief at 3, 4.

Appellants have misread the bankruptcy court's decision. Though the court may not have used the magic words that appellants seem to think were necessary, it is clear that the court was considering the correct issue. Near the outset of the proceedings, the court framed the issue by stating that

> [t]he underlying issue with all of these [contracts] is whether the trustee is reasonably asserting that to pursue a motion here would violate the trustee's obligations under Rule 9011, and so the question here is whether the trustee has a good basis for believing that pursuing an assumption here would violate Rule 9011.

June 13, 2006 Tr. at 9. And in addressing the ADS agreement, the court stated, in essence, that if it was apparent that the agreement had expired, "the trustee does not have a basis for going forward on it." *Id.* at 72.

The fact that the bankruptcy court may have considered the merits of the issue of the expiration of the ADS agreement does not mean, as appellants argue, that it was putting the cart before the horse. In fact, the two issues were intertwined. A court may impose sanctions under Rule 9011 if the party's attorney failed to conduct an adequate inquiry into the facts and law before filing the claim. *In re Excello Press, Inc.*, 967 F.2d 1109, 1122 (7th Cir.1992). The attorney's conduct is judged by a standard of objective reasonableness. *In re Kaliana*, 207 B.R. 597, 601 (Bankr.N.D.Ill.1997). In short, if there was no objectively reasonable argument that the ADS agreement had not expired, then the trustee could not properly pursue an assumption and assignment of that agreement.

For this reason, inquiry regarding whether the trustee could make a good faith argument in favor of assumption appropriately included inquiry into the issue of expiration. The bankruptcy court determined that because the ADS agreement clearly had expired, "the trustee does not have a basis for going forward on it." June 13, 2006 Tr. at 13. The court did not err in considering the expiration issue as part of its inquiry.

Nor did the court err in its underlying determination of the expiration issue. Appellants argued that the agreement had not expired by pointing to several court orders extending the time for the trustee to move to assign and assume contracts under the parties' settlement agreement. They argued that the "obvious intention" of these orders was to extend the time to renew the ADS contract. Appellants' Brief at 12. The bankruptcy court disagreed, finding that

its orders clearly stated that they did not extend the deadline:

THE COURT: Do you have any court order or any agreement that extended the time that the estate had to exercise an option to extend the underlying agreement?

COUNSEL: I think that the orders extending time [to move to assume and assign] were those orders, Your Honor.

THE COURT: Okay. I don't think so. We have always made a distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated . . . If there is nothing that prevents the expiration of the underlying agreement according to its terms other than an allegation that an order extending the time for the estate to assume or reject is in place, *the trustee does not have a basis for going forward on it.*

June 13, 2006 Tr. at 72 (emphasis added). The court summarized, "if [the agreement has] already expired, extending the time for assumption or rejection will have no impact on the expiration." *Id.* at 70.

The extension orders entered by the court only provided an extension "to the extent RTC possesses any contract rights." Appellees' Ex. O. The orders each further stated, "nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party . . . to such contracts may have that such contracts have expired and/or been terminated prior to the date of this Order." *Id.* Everyone

but appellants, it seems, understood the effect of the extension orders. As the court stated,

> No, you're not going to find anything, I am confident, in the record where [ADS's] counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. They've been here vociferously arguing for a substantial period of time that the agreement had terminated.

June 13, 2006 Tr. at 74.

The bankruptcy court's interpretation of its own orders is not subject to reversal absent a "clear abuse of discretion." *Endois Corp.*, 360 F.3d at 716 (quotation omitted). Based on the unambiguous language of the extension orders, appellants cannot meet this high hurdle. The court's determination that its orders did not renew the ADS agreement was not erroneous.

2. Evidentiary hearing

Appellants also contend that the bankruptcy court should have conducted an evidentiary hearing regarding whether the ADS agreement terminated before finding that the trustee had a good faith basis to believe that a motion to assume and assign could subject him to sanctions. Appellants argue that there were disputed issues of fact regarding "the Estate's and [ADS's] intentions and understandings as to the Trustee's dealings with [ADS] before determining that the extension of the assumption/rejection deadline was entered into by the Trustee as an exercise in futility."Appellants' Brief at 15.

Appellants do not point to any evidence they would have introduced at an evidentiary hearing that would

have affected the outcome of the motion to compel. They claim that there were disputed factual issues regarding "the understanding and intentions of the Trustee and Allied in entering into the Agreed Order and in the subsequent conduct with regard to the ADS agreement." Appellants' Brief at 15. As the bankruptcy court noted, the parties' subjective understandings and intentions regarding the court's order are irrelevant. June 13, 2006 Tr. at 73 ("[i]t's not a question of what his subjective understanding was. It's a question of what the terms of the order were and the terms of the underlying agreement."). There is no dispute about the language of the ADS agreement's termination provision, and appellants do not dispute that no one sought an extension of the agreement beyond December 31, 2005. Evidence regarding individuals' subjective understanding, assuming it would be admissible, would not change that. Nor is there any extrinsic evidence that would have affected the meaning of the bankruptcy court's orders extending the time for the trustee to assume or reject contracts. Accordingly, the court did not err by denying appellants' request for an evidentiary hearing.

Conclusion

For the reasons stated above, the Clerk is directed to enter judgment affirming the decision of the bankruptcy court.

APPENDIX C

AGREEMENT

This Agreement (the "Agreement") is made and entered into this 21st day of December, 1995 (the "Effective Date"), by and between Resource Technology Corporation, a Delaware corporation (the "Contractor"), and American Disposal Services, Inc., a Delaware corporation (the "Owner").

The Contractor and the Owner are hereinafter referred to as the parties to this Agreement.

RECITALS

WHEREAS, Owner represents that it has the sole right and power to grant the right to collect, extract and remove landfill gas from certain real estate located at (1) Pontiac, IL, (2) Wyandot, OH, (3) Clarion, PA and (4) Wheatland, KS a portion of which real estate has been licensed as a sanitary landfill (said portion of the real estate is referred to as the "Premises");

WHEREAS, Owner desires to grant to Contractor the exclusive right to develop and install a landfill-gas-to-energy conversion project at the Premises; ("the Project") and the exclusive right subject to the terms and conditions of this Agreement, to collect, extract and remove landfill gas from the Premises ("Landfill Gas") and to convert all or any portion of such Landfill Gas into electrical energy or any other form of energy for the purpose of selling or distributing such gas or electricity or other form of energy; and

WHEREAS. Contractor desires to have the exclusive right, subject to the terms and conditions of this Agreement, to develop and install the Project and to

collect, extract and remove Landfill Gas from the Premises and to convert all or any portion of such Landfill Gas into electrical energy or any other form of energy for the purpose of selling or distributing such gas or electrical energy or other form of energy;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. INCORPORATION OF RECITALS. The recitals above stated are herein incorporated as if specifically stated.

2. ROYALTIES. Contractor shall pay to Owner and/or Owner's designee, a royalty amount of six percent (6%) of Gross Sales The term "Gross Sales" as used herein shall mean the total amount of fees, or proceeds (a) received by Contractor or any assignee or any portion of Contractor's rights under this Agreement from actual sales of energy generated from Landfill Gas and produced as a direct result of the use of the Premises. and/or (b) received by Contractor or any assignee of any portion of Contractor's rights under this Agreement from actual sales of Landfill Gas to a purchaser other than Contractor or any assignee of any portion of Contractor's rights under this Agreement.

   Royalties shall be paid on a monthly basis by not later than the 30th day of the month immediately following the month for which the royalty was earned and shall be mailed or otherwise delivered to Owner's office at 745 McClintock Drive, Suite 303, Burr

Ridge, Illinois 60521, or such other place as Owner shall designate to Contractor in writing. The Contactor shall provide monthly detailed statements of account accompanying payment. Contractor shell provide owner with reasonable access during normal business hours to Contractor's books and records in order to allow Owner to audit the accuracy of contractor's statements of account.

3. GRANT. Owner hereby grants to Contractor, subject to the terms and conditions of this Agreement, the sole and exclusive right, in accordance with appropriate industry standards, to (a) develop and construct the Project at the Premises; (b) collect, extract and/or remove Landfill Gas from the Premises; (c) sell and/or distribute all or any portion of such Landfill Gas to any producer of electrical energy or other form of energy, or to any other person or entity; (d) produce, at the Premises, electrical energy or any other form of energy, from such Landfill Gas; (e) sell or distribute. from the Premises, all or any portion of the electrical energy or other form of energy produced from such Landfill Gas; and (f) do, at the Premises, in cooperation with Owner and not in interference with Owner's operations, all things necessary to carry our such development and construction of the Project and such collection, extraction, removal, sale and distribution of Landfill Gas and such production and sale and distribution of electrical energy or ether form of energy.

4. TERM. (a) The initial term of this Agreement shall commence on the Effective Date and shall expire on the date ten (10) years after the Effective Date, or on such earlier occurrence of a Termination Event or other date on which this Agreement is terminated in accordance with its provisions. The Contractor shall have the right to extend the term of this Agreement for up to three (3) consecutive periods of five (5) years each following the expiration of the initial 10-year period, provided that this Agreement has not been terminated by either party prior to such extension. The Contractor shall give written notice by certified or registered mail to the Owner of Contractor's intent (if any) to extend this Agreement not less than thirty days prior to the expiration of the preceeding period. In the event that this Agreement is extended beyond the initial 10-year period, all provisions contained herein shall continue in effect.

(b) Within ninety (90) days after termination of this Agreement by lapse of time or otherwise as provided in paragraph 4(a) of this Agreement, Contractor shall (i) dismantle and remove all of its above ground equipment and components and other above-ground personal property at the Premises at Contractor's sole cost, and (ii) restore the constructed areas of the Premises to the same condition as Contractor found such areas prior to any field testing of systems installations except that any equipment or material installed which is more than three (3) feet below grade shall, at Owner's option,

remain in place. In restoring such constructed areas, Contractor shall backfill, cap the top and bring to grade each drilling, using methods and materials determined by Contractor in its reasonable discretion, and in accordance with appropriate industry standards or any permit or other requirements applicable to the Premises.

5. ACCESS TO PREMISES. Contractor shall have the right to full access to that portion of the Premises where the Project has been installed at any and all times for the purposes outlined in this Agreement except that such right shall not include access to buildings owned or occupied by the Owner or active portions of the Landfill without Owner's prior written consent. Each of the parties agrees not to interfere with the business operations of the other at the Premises. Each party to this Agreement shall fully advise the other in advance of any changes in operation, maintenance, expansion programs, or other factors which may affect the business operations of the other at the Premises. If any party takes any action, refrains from taking any action, or undertakes any change in operations, maintenance or expansion programs or other factors, and thereby materially and detrimentally affects the business operations of the other party at the Premises, then if such detrimental event is not cured within thirty (30) days after receipt of written notice describing the nature of the detriment and its cause, the failure to cure such detrimental event within such thirty day period shall be a Termination Event.

6. DEVELOPMENT OF PREMISES. The Contractor will pursue field testing, licenses, permits and sales contracts in an expeditious manner in cooperation with Owner and at Contractor's own expense. Any lapse of six (6) months in the aforedescribed activities or any lapse of six (6) months in both production and maintenance activity associated with production will, for purposes of this Agreement, constitute de facto abandonment and a Termination Event. If Owner determines, in its sole opinion, that due to environmental conditions or for public relations reasons there is a need for installation of all or any portion of a collection and extraction system, and Contractor has not installed such a system, the Owner may install such system at its expense. If Contractor later determines that all or any portion of the system installed by Owner can be incorporated into the Project, then Contractor shall reimburse Owner for Owner's installation and system costs.

Within twelve months of the Effective Date of this Agreement, Contractor agrees that it shall complete a feasibility study for each of the four landfills encompassed by this Agreement (Livingston, Wyandot, Clarion and Wheatland) and shall submit to County Disposal a letter outlining its intention to proceed with the Project at the Premises (the "Notice Letter") and to initiate installation of the Project at the Premises within one year. Upon submission of a Notice Letter, Contractor shall complete installation of the Project within three yeses. If Contractor's Notice

Letter does not include all four of the landfills identified, then the rights granted hereunder shall revert to Owner with respect to the landfill(s) not included, and Owner's receipt of the Notice Letter shall constitute a Termination Event as to the landfill(s) not included.

7. CONTRACTOR'S RESPONSIBILITIES.

(a) Contractor shall be responsible, at its own expense, for obtaining all necessary governmental permits, for the installation of the collection and extraction system and gas-to-energy conversion systems and Contractor's collection, extraction, removal and/or generation activities and ongoing gas and air quality monitoring, as regulatorily required. In addition, Contractor shall be responsible for obtaining, at its sole expense, all necessary equipment and materials for the construction, implementation, and continuous operation of the Project. Contractor shall not be responsible for any fees or permits for anything not pertaining to its collection, extraction, removal and/or gas-to-energy conversion activities, unless it can be demonstrated by Owner that the need for such fees or permits is causally related to the Project at the Premises.

(b) Contractor. at its expense, shall be responsible for the maintenance of utility lines, and other equipment and materials associated with the Project, installed at the Premises and shall also be responsible for maintaining at its expense the general appearance of that portion of the Premises

used for extraction of Landfill Gas and gas-to-energy generation, specifically in and around the wellheads, pipelines, generators and utility lines. The Owner may require Contractor, at Contractor's expense, to provide fencing for the Project and reasonable landscaping around the Project at the Premises.

(c) In its installation, collection, extraction, removal and generation activities, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, from time to time adopted and promulgated, including without limitation, all environmental laws, rules and regulations.

(d) For all years beginning after 1995 during which the Project has been installed at the Premises and is in operation for all or any portion of the year. Contractor shall pay fifty percent (50%) of all real estate taxes levied on the Premises. Upon receipt of the real estate tax bill for each such year. Owner shall forward the same to Contractor for payment on or before the due date, together with a check for Owner's fifty percent (50%) share of the bill. However, if waste disposal operations cease at any of the four landfills encompassed by this Agreement (Livingston, Wyandot, Clarion and Wheatland), and the Project remains in operation, Contractor shall pay one hundred percent (100%) of all real estate taxes levied on the site where waste disposal operations have ceased. If Owner allows any person or entity other than Contractor to engage in activities on

the Premises which contribute to an increase in fair market value of the Premises, the parties to this Agreement shall in good faith negotiate to equitably adjust Contractor's share of the responsibility for real estate taxes.

8. CONFIDENTIAL, INFORMATION. All information acquired by either Party or anyone acting on either party's behalf (including but not limited to officers, employees and agents) from any reports, papers and records relating to either the Project or the Premises or Owner's operations shall be treated as confidential information, and neither party shall divulge (or allow or cause any person acting on behalf of that party to divulge) such information to anyone without the prior written consent of the affected party unless required by the order of a court of competent jurisdiction or by any applicable law, regulation, ordinance, host agreement or other order of a jurisdictional entity.

9. SPECIAL PROVISIONS. The Contractor will provide Owner with aerial monthly gas production data (qualitative and quantitative). The Owner shall consider the information confidential and shall make no disclosure of such information to any other person or entity except with prior written permission from Contractor unless required by the order of a court of competent jurisdiction, or by any applicable law, regulation, ordinance, host agreement or other order of jurisdictional entity.

10. WAIVER OR BREACH. No delay or omission to exercise any right or power by either party shall impair any such right or power or be construed as a waiver of any default or as acquiescence therein. One or more waivers of any covenant, term or condition of this Agreement by either party shall not be construed by the other party as a waiver of a subsequent or continuing breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party, of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent or approval to any subsequent similar act. In the event Contractor breaches this Agreement in any material respect, Owner shall notify Contactor of such breach in writing and shall provide a reasonable opportunity for Contractor to cure the breach. If Contractor fails to cure the breach within a reasonable time, such failure shall constitute a Termination Event giving Owner the right to terminate this Agreement.

11. LIENS. Contractor shall keep the Premises free from any liens arising from work performed, materials furnished, or obligations incurred by or at the direction of Contractor and shall indemnify, hold harmless and defend Owner for any such liens. Within thirty (30) days following knowledge of the imposition of any such lien. Contractor shall cause such lien to be released or cause an appropriate bond to be posted or an appropriate payment made. In the event that Contractor shall not, within thirty (30) days

following knowledge of the imposition of any such lien, cause such lien to be released or cause an appropriate bond to be posted or an appropriate payment to be made, then Owner shall have the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien, and all such sums paid by Owner shall be payable to Owner by Contractor.

12. INSURANCE. Connector shall, during the terms of this Agreement, maintain (a) comprehensive public liability and property damage insurance coverage, from a reputable insurer, which coverage shall have a combined single limit of not less than $10,000,000.00 for death or injury to any person(s) or for property damage as a result of any one occurrence which may arise out of or in connection with Contractor's operations hereunder and (b) excess liability insurance coverage, from a reputable insurer, which coverage shall have a combined single limit of not less than $10,000,000,00 on a per occurrence basis. Contractor shall provide ten (10) days prior written notice to Owner of any material change of coverage. A Certificate of Insurance evidencing the foregoing coverage limits shall be provided to the Owner, naming Owner as an additional insured.

13. INDEMNIFICATION. Each party shall defend, indemnify and hold the other party harmless from and against any and all claims, penalties, demands, actions, proceed-

ings, liability or losses, of whatever nature (including reasonable attorney's fees) for injury or death to person(s), or for damage or loss to property, including claims for environmental damage, but in each case only to the extent arising out of or caused by the actions of the indemnifying party, its subcontractors, employees, servants or contactors in connection with the Project, the Premises or any contiguous or nonadjacent property.

14. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. The parties hereto specifically agree that all or any portion of Contractor's interest in this Agreement may be assigned to one or more assignees, including for the purposes of complying with and/or benefiting from any past, current or future provision of tax law, including without Limitation Section 29 of the Internal Revenue Code and its amendments. Contractor shall provide Owner with all non-confidential information available to Contractor regarding each assignee(s) as Owner may reasonably request from Contractor. Owner shall have no entitlement to, and shall not claim, any portion of any tax credits generated as a result of the business operations of Contactor and/or its assignees at the Premises or in connection with the Landfill Gas.

15. NOTICES. Any notice required or permitted to be given under this Agreement shall be in writing, and there shall be deemed to have

been sufficient notice and service thereof if such notice is personally delivered or sent by registered or certified mail, postage prepaid, and addressed to the respective addresses stated below, or to such other address or addresses as may hereafter be designated by either party in writing. All notices shall be effective as of the postmark time and date.

The addresses are:

OWNER:

Richard be Young, President
American Disposal Services, Inc.
745 McClintock Drive, Suite 305
Burr Ridge, Illinois 60521

CONTRACTOR:

Mr. George Bi Calvert, President
Resource Technology Corp.
401 South LaSalle Street, Suite 1703
Chicago, Illinois 60605

With copy to:

Terrace W. Stein, Esq.
Freeborn & Peters
311 South Wacker Drive
Chicago, Illinois 60606

16. GOVERNING LAW. This Agreement shall be construed In accordance with the laws of the State of Illinois.

17. HEADINGS. The headings in this Agreement are inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

WHEREFORE, the parties have entered into this Agreement on the date first above written.

OWNER

AMERICAN DISPOSAL
SERVICES, INC.
a Delaware Corporation

By: /s/ Richard L. De Young
RICHARD L. DE YOUNG
President

CONTRACTOR

RESOURCE TECHNOLOGY CORP.,
a Delaware Corporation

By: /s/ George B. Calvert
GEORGE B. CALVERT
President

APPENDIX D

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 11
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER AUTHORIZING DEBTOR TO BORROW FUNDS FROM AQUILA ENERGY CAPITAL CORPORATION, GRANT SENIOR LIENS AND FOR OTHER RELIEF

THIS MATTER having been heard on the Motion of Resource Technology Corporation (the "Debtor"), the Debtor and Debtor in Possession herein, for Authority to Borrow Funds from Aquila Energy Capital Corporation ("Aquila"), Grant Senior Liens, and For Other Relief (the "Motion"), due and adequate notice of the Motion having been served on all parties entitled thereto, the Court having jurisdiction over both the parties and subject matter of the Motion, no party having raised any objection to the relief requested in the Motion, counsel for the Debtor having offered to make an evidentiary offer of proof on behalf of the witnesses who were present in the Court and having confirmed that the Debtor was continuing to rely on the facts as set forth in the Motion, the Court having declined to have an offer of proof made in the absence of any party wishing to

contest any factual allegation of the Motion, and the Court being fully advised in the premises,

I. FINDINGS OF FACT

THE COURT HEREBY FINDS that—

1. On or about November 15, 1999, an involuntary petition under Chapter 7 of title 11, United States Code (the "Bankruptcy Code") was filed against the Debtor (the "Case"). On or about January 18, 2000 the Debtor consented to the entry of both an order for relief and one converting the Case to one under Chapter 11 of the Bankruptcy Code, which orders became effective on February 1, 2000. The Debtor is in possession of its assets and operating its business as Debtor in Possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. Sufficient and appropriate notice and opportunity for hearing have been given for the Motion in accordance with the provisions of Sections 102 and 364 of the Bankruptcy Code, and Bankruptcy Rules 2002, 4001(c) and (d), 9006, and 9014.

3. This Court has jurisdiction over the Case pursuant to Sections 157(b)(1) and 1334 of Title 28, United States Code. This is a core proceeding pursuant to Section 157(b)(2)(A) and (0) of title 28, United States Code. Venue is proper pursuant to Sections 1408 and 1409 of title 28, United States Code.

4. The Debtor is in the business of controlling methane gas pollution of the atmosphere from landfills and structuring qualified transactions that create tax credits under the Internal Revenue Code for the sale and disposition of the methane gas. It collects the methane gas and either disposes of it, or

in some instances, converts it into usable energy, which it then sells to utility companies.

5. Since the inception of the Case, the Debtor has had several sources of financing to support its business operations. It currently has an operating line of credit of $5,000,000 (the "Banco Financing") granted to it by Leon Greenblatt, as agent for and on behalf of himself, Banco Panamericano, inc. and Chiplease, Inc., as lenders (collectively, "Banco"), all as approved by the Court pursuant to an order dated March 2, 2000.

6. On or about August 2, 2000, the Court entered an Order Authorizing Debtor to Borrow Funds, Grant Liens, Enter Into Contracts and For Other Relief, which approved the June 9, 2000 agreement between the Debtor and Network Electric Corporation ("NEC") respecting the financing of construction and/or expansion at the Debtor's Pontiac and Congress sites (the "Pontiac Facility" and the "Congress Facility", respectively), including the granting of certain liens and contract rights to NEC . Pursuant to the June 2000 Agreement, NEC agreed to extend to The Debtor credit in an amount not to exceed $13,100,000 for construction work at the Pontiac Facility and the Congress Facility, plus an additional $22,590,000 for the acquisition of the contemplated gas to electricity engines for use at the Congress and Pontiac Facilities. The financing with NEC under the June 2000 Agreement with respect to the Pontiac Facility closed on or about August 4, 2000 (the "Pontiac Loan") and the financing with NEC under the June 2000 Agreement with respect to the Con gress Facility closed on or about October 27, 2000 (the "Congress Loan"). As of December 1, 2001,

the payoff amount for the Pontiac Loan[1] is $18,257,141.88, and the payoff amount for the Congress Loan is $18,781,454.50, both inclusive of the commission owed by the Debtor to Archimedes Financial LLC ("AF").

7. On or about November 16, 2000, the Court entered an Order Authorizing Debtor to Borrow Funds, Grant Liens, Enter Into Contracts and For Other Relief, which approved the August 9, 2000 agreement between the Debtor and NEC respecting the financing of construction and/or expansion at the Debtor's Beecher site (the "Beecher Facility"), as well as the Des Plaines and 31st Street sites, including the granting of certain liens and contract rights to NEC. Pursuant to the August 2000 Agreement, NEC agreed to extend to the Debtor credit in an amount not to exceed $9,705,000 for construction work at the Beecher, Des Plaines and 31st Street Facilities, plus an additional $11,295,000 for the acquisition of the contemplated gas to electricity engines for the Beecher Facility. The financing with NEC under the August 2000 Agreement with respect to the Beecher Facility closed on or about December 8, 2000 (the "Beecher Loan"). As of December 1, 2001, the payoff amount for the Beecher Loan is $7,404,528.27, inclusive of the commission owed by the Debtor to AF. Collectively, the Beecher Loan, the Pontiac Loan and the Congress Loan are hereinafter referred to as the "NEC Financing".

8. The Debtor has previously engaged in a lengthy search for the best source of additional financing.

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[1] NEC has assigned its rights under the Pontiac Loan to IPWR, a company unrelated to the Debtor in any form or manner.

After engaging in that search process, having entered into financing agreements with NEC, and having searched for long-term, cash flow based financing for all of the various projects, the Debtor believes that the financing (the "Aquila Financing") being offered by Aquila under the terms and conditions as set forth in the Aquila Agreement (hereinafter defined), represents the most realistic and advantageous opportunity for the Debtor. The Aquila Financing will: (a) allow the Debtor to continue to proceed with the several new projects that it is currently contemplating, (b) leave unimpaired the Debtor's ability to continue work on its numerous other pending projects, (c) improve the Debtor's monthly cash flow, (d) retire certain expenses that the Debtor will otherwise have to pay in the future, and (e) provide a modest amount of immediate cash for the Debtor's use. The additional monthly positive cash flow anticipated to ultimately be derived from the Aquila Financing, once the Pontiac[2], Congress and Beecher Facilities (the "Covered Facilities") are all up and running at capacity, will add to the Debtor's ability to reorganize its business and provide additional resources to fund a plan of reorganization.

9. The Debtor is unable to obtain sufficient working capital financing in the form of unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code pursuant to sections 364(a) or (b) of the Bankruptcy Code, The

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[2] Limited to the revenue generated by the first three (3) Taurus engines currently installed at Pontiac with the proceeds of the Pontiac Loan, and not including the revenue to be generated from the installation and operation of the second three (3) Taurus engines and Titan engine (collectively, the "New Engines"), which are the subject of a separate motion.

Debtor is unable to obtain financing having the priority afforded by section 364(c)(1) of the Bankruptcy Code or financing secured as described in sections 364(c)(2) or (3) of the Bankruptcy Code on terms and conditions as advantageous as the Aquila Financing. Aquila is willing to provide financing only under Section 364(d) of the Bankruptcy Code, and Banco is willing to subordinate its interest in the Collateral (as that term is defined hereinbelow) to the interest proposed to be granted to Aquila hereunder, in order to accommodate the Aquila Financing, and NEC and IPWR has agreed to release its liens and security interests in the Covered Facilities in consideration for payment of the sums owing to NEC and IPWR.

10. After reasonable search and investigation, the Debtor is unaware of any other source of such extensive financing that is available to it. After considering all alternatives, the Debtor has concluded, in the exercise of its business judgment, that the Aquila Financing contemplated by the Motion represents the best working capital financing available to the Debtor under the present circumstances.

11. Aquila has indicated a willingness to extend credit to the Debtor in an amount not to exceed $53,000,000 for the refinancing of the Covered Facilities (the "Aquila Loans") on the terms and conditions set forth in Group Exhibit "A" attached to the Motion (the September 25, 2001 letter agreement between RTC and Aquila, the September 28, 2001 letter from RTC to Aquila, the November 1, 2001 letter agreement between RTC and Aquila, and the November 21, 2001 letter agreement between RTC and Aquila (collectively, the "Aquila Agreement")).

12. The ability of the Debtor to refinance certain of its existing debt through the Aquila Financing and the proceeds of the Aquila Loans described in the Motion is vital. The principal benefit of the Aquila Financing will be the repayment of the NEC Financing and a portion of the Banco Financing and related charges and the provision of repayment terms that are more favorable to the Debtor than those of the Existing Financings, thereby allowing the Debtor to have more future cash flow available to both fund its plan of reorganization and meet its needs respecting current operating expenses and future projects. The preservation and maintenance of the value of the Debtor's business is of the utmost significance and importance and is in the best interests of the estate and its creditors. The terms of the Aquila Financing set forth in the Motion are fair and reasonable under the circumstances. Among other things, entry of an order granting the relief requested by the Debtor in the Motion will (a) minimize disruption of the Debtor's business and operations, (b) permit the Debtor to meet payroll and other operating expenses, (c) permit the Debtor to meet its obligations under various pending contracts that are essential to the Debtor's ongoing business operations, (d) enable the Debtor to continue to obtain needed supplies and retain customer confidence, (e) provide the Debtor with reliable and valuable general contractor services in conjunction with the Projects, and (f) provide a stronger basis for the Debtor to propose and confirm a plan of reorganization. Therefore, entry of an order approving the Motion is in the best interests of the Debtor, its estate and creditors.

13. The terms of the Aquila Financing contemplated hereby have been negotiated in good faith and

at arm's-length between the Debtor and Aquila, and the credit to be extended by Aquila is being offered in good faith (as that term is used in Section 364(e) of the Bankruptcy Code). Neither Aquila nor AF is owned or controlled by any party with an existing ownership interest or an agreement to acquire an ownership interest, direct or indirect, in either the Debtor or Banco.

14. Good, adequate, and sufficient cause has been shown to justify the granting of the relief that is the subject of the Motion.

II. CONCLUSIONS OF LAW

A. All interested parties have been afforded adequate time and opportunity to examine appropriate representatives of Aquila, AF and the Debtor on all issues relating to the transactions and arrangements that are the subject of the Motion,

B. The Aquila Financing and other transactions and arrangements that are the subject of the Motion do not constitute, alone or in combination with each other, a plan of reorganization under Section 1123 of the Bankruptcy Code.

C. Aquila is entitled to the liens and protections of a good-faith lender under Sections 364(d) and 364(e) of the Bankruptcy Code.

D. The entry of this Order and the granting of the relief requested herein are in the best interests of the Debtor, its creditors, and the bankruptcy estate and are necessary to the continued operation of the Debtor's business.

E. This Order, and the findings of fact and conclusions of law contained herein, shall be effective upon signature by the Court, without the necessity of

entry into the docket sheet of this Case. To the extent any findings may constitute conclusions, and vice versa, they are hereby deemed as such.

III. ORDERS OF COURT

IT IS HEREBY ORDERED that the Motion is granted pursuant to Section 364(d) of the Bankruptcy Code as set forth below:

1. The Debtor is hereby authorized and empowered to borrow from Aquila in accordance with the Aquila Agreement and the terms of this Order an amount not to exceed $53,000,000, without further order of the Court. Notwithstanding the foregoing, the Aquila Financing is subject to the following: (i) Aquila's completion of its due diligence regarding the Covered Facilities and the Aquila Financing; (ii) execution by the Debtor of all required loan documents, credit agreements and such other documentation as is deemed necessary and appropriate by Aquila to evidence the transactions contemplated by the Motion and authorized by this Order (the "Aquila Loan Documents"); and (iii) the Debtor's satisfaction of all conditions precedent contained in the Aquila Loan Documents, including without limitation, a subordination agreement from Banco as to the Collateral in form and substance satisfactory to Aquila. Until all of the foregoing conditions are satisfied and/or waived by Aquila, Aquila shall have no obligation to complete the Aquila Financing and fund the Aquila Loans.

2. The Debtor is granted authority to grant to Aquila first priority liens (the "Aquila liens") and security interests (the "Aquila Security Interests") in and to the Debtor's right, title and interest in and to all of the existing and hereafter acquired contracts,

licenses, entitlements and other property and assets relating to the Covered Facilities and the Aquila Cash Collateral (as hereinafter defined) (the "Collateral)[3]. The Aquila Security Interests shall be subject only to the security interest of Congress Development Company in the gas collection system at the Congress Facility. Upon NEC's receipt of the outstanding principal balances, accrued interest and any other amounts due under the Beecher Loan and the Congress Loan, NEC shall (i) execute and deliver to Aquila, in form and substance satisfactory to Aquila, releases of its liens and security interests in the Beecher Facility and the Congress Facility; and (ii) terminate the equipment lease relating to the Beecher and Congress Facilities and deliver a bill of sale for the equipment to the Debtor. Upon IPWR's receipt of the outstanding principal balances, accrued interest and any other amounts due under the Pontiac Loan, IPWR shall (i) execute and deliver to Aquila, in form and substance satisfactory to Aquila, releases of its liens and security interests in the Pontiac Facility; and (ii) terminate the equipment lease relating to the Pontiac Facility and deliver a bill of sale for the equipment to the Debtor.

3. The Aquila Security Interests and Liens with respect to the Collateral granted herein shall be deemed valid, binding, enforceable and perfected as first liens (except as set forth herein) upon the funding of the Aquila Loans and without the execution or filing of any document or instrument otherwise required to be executed and/or filed under

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[3] Excluding the assets to be acquired by the Debtor with the proceeds of the new loans to be made by NEC, which are the subject of a Motion to Authorize Financing with NEC being presented simultaneously herewith.

applicable non-bankruptcy law. Notwithstanding the foregoing, the Debtor shall, at Aquila's option, execute and deliver to Aquila, in form and substance satisfactory to Aquila, such financing statements, mortgages, assignments, agreements, instruments and documents as Aquila shall request to create, evidence or perfect the Aquila Security Interests, and Aquila may file such financing statements, mortgages, assignments, agreements, instruments and documents in such filing offices as may be appropriate under applicable non-bankruptcy law in order to perfect the Aquila Security Interests with respect to the Collateral. Any error or omission by Aquila or its agents in the preparation or filing of any such financing statements, mortgages, assignments, agreements, instruments or documents shall not affect the validity, extent, perfection or priority of any of the Aquila Security Interests granted to Aquila. All financing statements, mortgages, assignments, agreements, instruments and documents, any taking of possession of any of the Collateral and any taking of any other action to validate or perfect the Aquila Security Interests against the Collateral under the provision of applicable non-bankruptcy law shall be deemed to have been made or taken at the time and on the date of entry of this Order; provided, however, that no such filings or other actions shall in any way limit the effect of this Order.

4. Commencing on the closing of the Aquila Loan(s) (the "Closing"), and thereafter, the Debtor shall account for and segregate, remit and deposit all of the proceeds realized from the sale of electricity from the Covered Facilities and any other revenues or proceeds associated with the Covered Facilities ("Aquila Cash Collateral"), unless paid directly to Aquila by account debtors of the Debtor, only in a

lockbox account to be established at The Northern Trust Company in Chicago, Illinois ("Bank") (the "Cash Collateral Account"). The Cash Collateral Account shall be in the name of the Debtor and Aquila shall have full dominion and control over such accounts (which shall be immediately restyled as a "debtor-in-possession" account in the name of the Debtor) pursuant to terms and provisions acceptable to Aquila and as set forth in the Aquila Loan Documents. Additionally, the Debtor shall, in advance of the Closing, and on an ongoing basis, to the extent not already done, direct all account debtors of the Debtor relating to the Covered Facilities in writing to make all payments directly to the lockbox account at the Bank for immediate transfer against the indebtedness of Debtor to Aquila as provided in this Order and the Aquila Loan Documents. The Cash Collateral Account shall be maintained for the purpose of complying with this Order, and shall be separate from any other accounts of the Debtor which have been established as "debtor-in-possession" accounts. Any funds remitted by the Bank to the Debtor from the Cash Collateral Account shall thereafter not constitute Aquila's cash collateral within the meaning of Section 363 of the Bankruptcy Code. The Debtor shall comply with all rules and regulations of the Office of the United States Trustee in connection with the accounts referenced above. Notwithstanding the foregoing, the rights of Aquila in the Cash Collateral Account shall be subject to the rights o f NEC in proceeds and revenues deposited therein which are either (a) proceeds from the sale of electricity from the New Engines, or (b) any other revenue or proceeds associated with the New Engines. The rights and obligations of Aquila and NEC shall he delineated in greater detail in an

intercreditor agreement to be negotiated by the parties.

5. In the event of the occurrence of any of the following: (a) the Debtor's violation of any of the terms of this Order which cannot be cured by any action of the Debtor, (b) conversion of the Case to a case under Chapter 7 of the Bankruptcy Code without Aquila's written consent, (c) the appointment of a trustee pursuant to Section 1104 of the Bankruptcy Code without Aquila's written consent, (d) appointment of an examiner without Aquila's consent (e) dismissal of the Case without Aquila's consent, (f) the entry of any order modifying, reversing, revoking, staying, rescinding, vacating, or amending this Order without Aquila's written consent (and no such consent shall he inferred from any other action, inaction, or acquiescence by Aquila), (g) the filing of a plan of reorganization by the Debtor that does not provide for the treatment of the Aquila Loans in accordance with the Aquila Loan Documents, unless otherwise agreed in writing by Aquila, or (h) an Event of Default under the Aquila Loan Documents (any of the foregoing begin referred to in this Order, individually, as an "Event of Default" and, collectively, as "Events of Default"); which remains uncured, then unless such Event of Default is (A) cured by the Debtor prior to the acceleration of the Aquila Loan, to the extent such Event of Default is even capable of being cured; or (B) specifically waived in writing by Aquila, which waiver shall not be inferred from any other action, inaction, or acquiescence by Aquila: (1) all of the Aquila Loans shall become immediately due and payable, and (2) the Debtor shall not use the Aquila Cash Collateral without further order of the Court.

6. Upon or after the occurrence of an uncured Event of Default, Aquila shall give such notice as provided in the Aquila Loan Documents and in this Order, served by delivery service or telefax upon the Debtor, the Debtor's counsel, the United States Trustee's office, Congress, and the Committee.

7. There shall not be entered in this Chapter 11 Case or in any subsequent Chapter 7 case any order which authorizes under any section of the Bankruptcy Code (including, without limitation, sections 105, 364 or 506 of the Bankruptcy Code) the procurement of credit or the incurring of indebtedness secured by a security interest, lien or mortgage, which is equal to or senior to the Aquila Liens and Security Interests in the Collateral, nor shall the Debtor, directly or indirectly, create, incur, assume or permit to exist any security interest, lien or mortgage, on or with respect to the Collateral, nor take or fail to take any action which would grant or create a security interest, lien or mortgage in favor of any party in the Collateral, unless it shall first obtain the prior written consent of Aquila, in the sole and absolute discretion of Aquila, which consent may be given from time to time.

8. From and after the date of the Closing, the proceeds of the Aquila Loans shall be used only for the purposes provided for in the Aquila Agreement, the Motion and the Aquila Loan Documents.

9. The Aquila Loans and any other financial accommodations made to the Debtor by Aquila under the Aquila Agreement or any document or agreement contemplated by the Aquila Agreement are made in reliance on this Order and there shall not be entered at anytime in the Case, without the express prior written consent of Aquila, any further or additional

order that (i) authorizes the use of the Aquila Cash Collateral, (ii) authorizes the sale, assignment, transfer, conveyance, lease, encumbrance, or other disposition of all or any portion of the Collateral, (iii) authorizes the obtaining of any other loan, advance, or other financial accommodation to the Debtor secured by a lien or security interest in the Collateral that is equal or superior to that of Aquila, or (iv) grants to any person a priority administrative claim that is equal or superior to the superpriority status that is afforded to Aquila hereunder. The Aquila Security Interests in, and its rights and remedies with respect to, the Collateral shall not be altered, amended, modified, impaired, or adversely affected in any manner by any plan of reorganization of the Debtor.

10. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order that may be entered converting the Case to a Chapter 7 case or any order that may be entered confirming or consummating a plan of reorganization of the Debtor and the terms and provisions of this Order as well as the priorities in payment, liens and security interests granted pursuant to this Order and the Aquila Loan Documents shall continue in these or any superseding case under the Bankruptcy Code and such priorities in payment, liens and security interests shall maintain their priority as provided by this Order until the Aquila Loan is indefeasibly satisfied and discharged and Aquila shall have no further obligation or financial accommodation to the Debtor; provided that all obligations and duties of Aquila hereunder, under the Aquila Loan Documents or otherwise, with respect to any future loans and advances or otherwise, shall terminate immediately upon the date of any Event of Default, unless Aquila

has given its express prior written consent thereto, no such consent being inferred from any other action, inaction, or acquiescence by Aquila.

11. If an order is entered, whether *sua sponte* by the Court or otherwise, dismissing or converting this Chapter 11 case, such order shall recognize that such dismissal or conversion shall not affect or diminish Aquila's rights, priorities, or remedies hereunder. If any or all of the provisions of this Order are hereafter modified, vacated, or stayed, such modification, vacation, or stay shall not affect (a) the validity of any obligation, indebtedness, or liability incurred by the Debtor to Aquila before the effective date of such modification, vacation, or stay, or (b) the validity or enforceability of any secured interest, lien, priority, or other protection authorized or created hereby or under the Aquila Loan Documents. Notwithstanding any such modification, vacation, or stay, any indebtedness, obligations, or liabilities incurred by the Debtor to Aquila before the effective date of such modification, vacation, or stay shall be governed in all respects by the original provisions of this Order and Aquila shall be entitled to all the rights, remedies, privileges and benefits granted herein and pursuant to the Aquila Loan Documents with respect to all such indebtedness, obligations, or liabilities. The postpetition financing obligations and indebtedness of the Debtor to Aquila under the Aquila Loan Documents or this Order shall not be discharged by the entry of an order confirming a plan of reorganization in this Chapter 11 case unless and until the Aquila Loan is indefeasibly paid in full as of the effective date of such Plan,

12. The provisions of this Order shall inure to the benefit of the Debtor and Aquila and they shall be

binding upon the Debtor and its respective successor and assigns, including any Trustees or other fiduciaries hereafter appointed as legal representatives of the Debtor or with respect to any property of the estate of the Debtor, whether under Chapter 1I of the Bankruptcy Code or any subsequent Chapter 7 case and shall also be binding upon all creditors of the Debtor and other parties in interest.

13. To the extent the terms and conditions of the Aquila Loan Documents are in conflict with the terms and conditions of this Order, the terms and conditions of this Order shall govern and supplement or amend, as the case may he, the terms of this Order shall be valid and binding upon the Debtor, all creditors of the Debtor and all other parties in interest from and after the date of the signing of this Order by this Court. In the event this Court modifies any of the provisions of this Order or the Aquila Loan Documents following such further hearing, such modifications shall not affect Aquila's cl aims, rights or interests granted pursuant to this Order with respect to the Collateral and any portion of the Aquila Loan that arises, is incurred or is advanced before such modifications and this Order shall remain in full force and effect.

14. Aquila shall be entitled to the full protections of Section 364(e) of the Bankruptcy Code with respect to debts, obligations, liens, security interests and other rights created or authorized in this Order if this Order or any authorization contained herein is vacated, reversed, or modified on appeal or otherwise by any court of competent jurisdiction. Any loans, advances or other financial accommodations made to or for the benefit of the Debtor by Aquila pursuant to the Aquila Loan Documents are deemed to have been

extended in good faith, as the term is used in Section 364(c) of the Bankruptcy Code and shall be entitled to the full protections of Section 364(e) of the Bankruptcy Code in the event that this Order or any provision hereof is vacated, reversed, or modified, on appeal or otherwise.

15. The Debtor shall not seek to impose a surcharge upon Aquila and/or the Collateral, pursuant to Section 506(c) of the Bankruptcy Code or otherwise, without the express prior written consent of Aquila. No loan, advance, or other financial accommodation made by Aquila to the Debtor pursuant to the Aquila Agreement or any other document or agreement contemplated therein shall be avoidable or recoverable from Aquila under any circumstances, including without limitation under Sections 547, 548, 550, or 553 or any other provision of the Bankruptcy Code.

16. The Debtor has stipulated that in making decisions to permit advances under the Aquila Loan Documents or the collection of the Aquila Loan, Aquila shall not be deemed to be in control of the operations of the Debtor or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the Comprehensive Environmental Response, Compensation and Liability Act, as amended or any similar Federal or state statute) by virtue of the interests, rights and remedies granted to or conferred upon Aquila under the Aquila Loan Documents or this Order.

17. The Debtor is authorized and directed, without further order of this Court, to pay or reimburse Aquila promptly for all present and future reasonable

fees, out-of-pocket costs and expenses charged, paid, or incurred by Aquila to effectuate the financing transaction described in the Motion and the Aquila Loan Docum ents including, but not limited to, the fees and expenses set forth in the Use of Proceeds attached hereto as Exhibit "A".

18. Nothing contained in this Order shall alter or amend the rights and obligations of the parties, including the Debtor, with respect to the various Gas Rights Leases (the underlying agreements between the Debtor and the various landfill owners) to which the Debtor is a party.

19. All of the obligations of the Debtor to Aquila hereunder shall be subject to treatment under a plan of reorganization pursuant to the terms of the Agreement, but the Debtor may not modify, alter, extend or otherwise change the terms thereof under such a plan, without the prior written consent of Aquila.

20. Upon the closing of the Aquila Financing, the Debtor is authorized to pay AF a commission in the amount and upon the terms as set forth in the Motion; provided, however, that in no event shall the Debtor pay AF a commission greater than one percent of the actual amount of financing (whether in the form of loans or leases) the Debtor obtains from Aquila. Said commission will due and payable by the Debtor from the proceeds of the Loan and shall be paid to AF at the closing.

Dated: December ___, 2001

/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
UNITED STATES BANKRUPTCY JUDGE

Order prepared by:

Robert M. Fishman
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EXHIBIT A

Capitol Cost Summary

Pontiac Project - Quanta Construction Loans	18,076,378
Congress Project Quanta Constriction Loans	18,595,500
Beecher Project Quanta Construction Loans	7,331,216
Total Quanta Construction Loans Retired	44,003,095
I-Power DIP Well Field Loan	1,587,000
Banco Panamericano Well Field Loan	1,000,000
Total Other Loans Retired	12,387,000
Total Loans Retired	46,590,094
Achimedes Financial Construction Loan Fee	439,196
Achirnedes Financial Aquila Loan Fee	530,000
Aquila Engineering Costs	20,000
Aquila Legal and Other Costs	240,000
Aquila Closing Fees	662,500
Debt Service Reserve	1,400.000
Total Other Costs	6,291.496
Total Financing Amount	52,8811790

APPENDIX E

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 11
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

STIPULATION RELATING TO ASSUMPTION OF ALLIED WASTE INDUSTRIES, INC. AGREEMENT RESPECTING PONTIAC LANDFILL SITE

Resource Technology Corporation ("RTC" or "Debtor") and Allied Waste Industries, Inc. ("Allied"), as successor in interest to the rights of American Disposal Services, Inc. ("ADS"), in and to that certain Agreement between RTC and ADS respecting Gas Collection Facilities and Gas to Energy Conversion Facilities, dated December 21, 1995 (the "Agreement"), in conjunction with RTC's Amended Motion to Assume Allied Waste Industries, inc. Agreement Respecting Pontiac Landfill (the "Amended Motion"), hereby agree and stipulate as follows:

1. RTC is desirous of assuming, pursuant to Section 365 of title 11, United States Bankruptcy Code (the "Bankruptcy Code"), the Pontiac portion of the Agreement (the "Pontiac Agreement").[1]

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[1] RTC arid Allied had previously stipulated that the assumption of the Pontiac Site portion of the Agreement was all that was going to be considered at the hearing the Court

2. Under the terms and conditions as more fully described below, Allied is willing to not object to the assumption of the Pontiac Agreement.

3. As a condition to assumption of the Pontiac Agreement, RTC must cure, or provide adequate assurance of prompt cure of, all defaults respecting the Pontiac Agreement.

4. In order to assume the Pontiac Agreement, RTC must meet the requirements of Section 365 of the Bankruptcy Code, including the requirement that RTC must cure, or provide adequate assurance of a prompt cure of, all defaults respecting the contract to be assumed ("Defaults and Cures").

5. RTC and Allied agreed on the terms of an agreed assumption of the Pontiac Agreement, subject to the terms and conditions hereof. RTC and Allied have agreed that the Defaults and Cures as set forth herein constitute all of the Defaults and Cures necessary For the assumption of the Pontiac Agreement (the "Stipulated Defaults and Cures").

6. The following are the Stipulated Defaults:

A. *Mechanic's Lien Claims* - Allied has alleged that there are five (5) mechanic's lien claims filed against the Pontiac Site in the aggregate amount of $701,590.26 (the "Mechanic's Lien Claims"), as follows:

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scheduled for September 6, 2001. This Stipulation is not intended to, nor does it, address the Agreement as respects any of the sites other than Pontiac. Both RTC and Allied have reserved all of their respective rights, defenses, claims and counterclaims respecting the other three facilities that are the subject of the Agreement.

1.	Phillips, Getschow Co.	$522,760.00
2.	Gajeske, Inc.	$ 36,910,99
3.	Mostardi-Platt Associates, Inc.	$ 33,940.58
4.	Country Crane, Inc.	$ 7,475.00
5.	Dynamic Electric, Inc.	$100,503.69

RTC stipulates and agrees to satisfy each of the Mechanic's Lien Claims in one of the manners set forth hereinbelow.

B. *Real Estate Taxes*—Under Paragraph 7(d) of the Agreement, RTC is obligated to pay 50% of the real estate taxes of the Premises for all years after 1995 during which the Project (defined in the Agreement) has been installed at the Premises and is in operation for all or any portion of the year. Because the Project was operational at the Pontiac Site prior to the end of 1999, RTC is obligated to pay 50% of the real estate taxes for the Pontiac Site for the years 1999 and 2000 (the "1999-2000 Real Estate Tax Claim") and thereafter. The 1999-2000 Real Estate Tax Claim is stipulated to be $35,752.38 for 1999 and $36,419.99 for 2000.

C. *Allied Installed collection System, Pontiac Site Flare Rental, Monitoring Expenses and Other Expenses*—Allied paid for the installation of a portion of the Gas Collection System currently in place at the Pontiac Site. Additionally, for a time period both prior to and after the commencement of the Case, there was a flare in place at the Pontiac Site, at Allied's expense, for which Allied is entitled to reimbursement. Allied

has also incurred various monitoring and other expenses for which Allied has claimed an entitlement to be reimbursed. Lastly, Allied has alleged that it is entitled to recover lost royalties or profits from RTC, on account of RTC not having built a sufficient facility at the Pontiac Site in a timely fashion. This category of Defaults is intended to encompass all Defaults not enumerated elsewhere in this Stipulation, alleged or actual, disputed or agreed (the "Miscellaneous Defaults"). RTC and Allied have agreed and stipulated that $640,400 is the amount of cure for the Miscellaneous Defaults.

7. Premised on the entry of a final, non-appealable order (the "Assumption Order") approving the assumption of the Agreement on the terms and conditions set forth herein (the date on which the Assumption Order becomes final and non-appeal able shall be referred to herein as the "Assumption Date"), the following summarizes the Stipulated Cures:

A. *Mechanic's Lien Defaults*—RTC will, within thirty (30) days of the Assumption Date, either (i)(a) post an appropriate bond for the benefit of, and in form and substance reasonably acceptable to Allied, including, specifically, a bond procured by RTC' s secured lender, Banco PanAmericano, as agent for itself, Chiplease and Leon Greenblatt (the "Lenders"), with the cost thereof being applied against RTC's post-petition lending facility with Lenders, or (b) post cash in the amount of the particular Mechanic's Lien Claim with a third party mutually acceptable to Allied and RTC, to secure the Mechanic's Lien Claims of Mostardi-Platt Associates, Inc., Country Crane, Inc., and/or Dynamic Electric, Inc., (ii)

cause the particular Mechanic's Lien Claim of Phillips, Getschow Co., Country Crane, Inc., and/or Dynamic Electric, Inc., to be satisfied and provide *a* release to Allied, or (iii) provide to Allied, to Allied's reasonable satisfaction, such other reasonable proof that the particular Mechanic's Lien Claim of Gajeske, Inc. or Phillips, Getschow, Inc. has been satisfied and released (the "Mechanic's Lien Cures").

B. *Real Estate Tax Default*—RTC will pay the 1999-2000 Real Estate Tax Claim to Allied in full within thirty (30) days of the Assumption Date (the "Real Estate Tax Cure").

C. *Miscellaneous Defaults*—RTC will cure the Miscellaneous Defaults by paying the following amounts to Allied:

(I) $500,000.00 will be paid in eleven (11) equal monthly installments of $41,667.00 each and one final payment of $41,663.00, the first of which will be made on the twenty-fifth day of the first month after the Assumption Date. Each subsequent payment will be made on or before the twenty-fifth day of each succeeding month, until the $500,000.00 has been paid (the 1500,000 Cure").

(II) Thereafter, commencing with the twenty-fifth day of the first month after the payments provided in Subparagraph (I) immediately hereinabove have been completed, the remaining $140,400.00 will be paid in eighteen (18) equal monthly installments of $7,800.00. Each subsequent payment will he made on or before the twenty-fifth day of each succeeding month, until the $140,400.00 has been paid (the 1140,400 Cure").

(III) The Term "made" as used in subparagraph 7(C)(1) and 7(C)(11) herein shall mean received by Allied on or before the applicable date at the following address:

Allied Waste Industries, Inc.
745 McClintock Drive, Suite 305
Burr Ridge, Illinois 60521

8. The following additional rights, obligations and procedures will be applicable to the assumed Pontiac Agreement:

A. In the event that Allied believes that RTC has defaulted under any obligation of the Pontiac Agreement, as modified by the Assumption Order to he entered approving the Amended Motion and the assumption of the Pontiac Agreement (the "Assumed Agreement"), prior to the time that Allied may exercise such remedy or remedies as are available to it under the Assumed Agreement, Allied must provide to both RTC and its counsel, at the addresses listed below, written notice of the alleged default (the "Default Notice"), containing sufficient detail so as to put RTC on notice of the nature of the alleged default (the "Alleged Default"). Notwithstanding the foregoing, the time periods provided for the Mechanic's Lien Cures and the Real Estate Tax Cure shall be strictly enforced so that any default in the payment of sums or performance of obligations thereunder shall result in the termination of the Assumed Agreement upon notice without further opportunity to cure,

B. Upon receipt of the Default Notice, RTC will have the applicable cure period, as set forth

in the schedule hereinbelow (the "Default Cure Period"), in which to cure the Alleged Default:

(I) With respect to the $500,000 Cure, the Default Cure Period will be ten (10) business days.

(II) With respect to the $140,400 Cure, the Default Cure Period will be ten (10) days.

(III) With respect to any other alleged default under the Assumed Agreement, the notice and cure provisions of the Agreement shall continue to control.

C. With respect to the Mechanic's Lien Cures, the Real Estate Tax Cure, the $500,000 Cure and the $140,400 Cure, in the event that RTC does not timely cure the default with the applicable Default Cure Period, then and in that event Allied will be entitled to exercise all fits available rights and remedies, including without limitation, to terminate the Assumed Agreement by giving both RTC and its counsel, at the addresses listed below, written notice of Allied's intention to terminate (the "Termination Notice"). The Termination Notice must set forth the basis for the termination, specifically delineating the particular uncured default and certifying that the applicable Default Notice was sent by Allied to the parties entitled thereto. Mier receipt of the Termination Notice, 'RTC will be entitled to an additional five (5) business day cure period (the "Termination Cure Period"). If RTC fails to cure the applicable default within the Termination Cure Period, the Assumed Agreement is termi nated without further action by Allied.

9. A. It is the intent of the parties that RTC strictly comply with all EPA, IEPA and other governmental agency deadlines, monitoring and performance requirements. In the event that RTC, by some act or omission, creates a situation that results in (i) a violation of any applicable federal, state or local laws, rules, or regulations applicable to the Pontiac Site; (ii) an environmentally hazardous condition; (iii) circumstances whereby an environmentally hazardous condition is imminent; or (iv) some other circumstances that may result in danger to health and safety, and the foregoing circumstances are such that requires immediate action, Allied shall provide notice of the condition to RTC by whatever means are reasonably appropriate (including, by way of example and not by way of limitation, telephone notice, or in person notice) and, if RTC does not undertake to remedy the situation within the timeframe appropriate to the nature of the problem, Allied shall have the right (hut not the obligation) to enter the Pontiac Site, remedy the situation, and charge back to RTC any costs reasonably incurred by Allied in connection with such efforts, and RTC shall reimburse Allied for those expenses advanced not later than five (5) business days following receipt of Allied's written demand for payment and proof of the applicable expense,

B. In addition to the foregoing remedies set forth in subparagraph 9A hereof, Allied shall have the right, upon the occurrence of any event set forth in subparagraph 9A, to require that RTC provide further assurances, or implement remedial measures that will ensure that such occurrence does not recur. Should RTC fail to provide such assurances or other remedial measures within thirty (30) days of Allied's written demand therefore, that failure will he

deemed a failure to cure within a Default Cure Period under Paragraph 8C hereof, and Allied shall have the right to proceed with the measures set forth in Paragraph 8C hereof.

10. In the event that RTC believes that any alleged default is substantially the fault of the actions or conduct of Allied, RTC has the right to file an appropriate pleading with the Bankruptcy Court, within the applicable Default or Termination Cure Period, seeking a ruling from the Bankruptcy Court that the default is excused and does not form the basis for a termination. Upon the filing of such a pleading, the applicable time period is tolled until the Court rules on the pleading or otherwise resolves the issue.

11. The agreements contained herein are made in connection with RTC's undertaking to assume the Pontiac Agreement. These agreements arc made without prejudice to the position of RTC and Allied respecting the existence or nonexistence of rights under the Agreement as it pertains to the other three sites.

12. In the event of a conflict between the terms and conditions of this Stipulation and the Pontiac Agreement, the terms of this Stipulation will prevail. In the event, however, that a particular subject matter is not covered in this Stipulation which is covered in the Pontiac Agreement, the terms of the Pontiac Agreement, to the extent not conflicting with this Stipulation, shall apply.

13. R.TC and Allied assent to the Court's Entire that the Agreement is an executory contract within the meaning of Section 365 of the Bankruptcy Code.

Stipulated and agreed to this 4th day of January, 2002:

RESOURCE TECHNOLOGY CORPORATION

By: /s/ Robert M. Fishman
Robert M. Fishman
Shaw, Gussis, Domanskis, Fishman & Glantz LLC
1144 West Fulton, Suite 200
Chicago, Illinois 60607

ALLIED WASTE INDUSTRIES, INC.
By: _____
One of its Attorneys

Konstantinos Armiros
Levenfeld Pearlstein
33 West Monroe Street, 21 Floor
Chicago, Illinois 60603

APPENDIX F

CONSENT AND AGREEMENT
(Landowner—Pontiac Facility)

This CONSENT AND AGREEMENT (this "Consent"), dated as of April 10, 2002 is among American Disposal Services, Inc., a Delaware corporation and Allied Waste Industries, a Delaware corporation (individually and collectively, the "Consenting Party"), Resource Technology Corporation, a Delaware corporation ("RTC") and Aquila Energy Capital Corporation, a Delaware corporation ("Aquila").

RECITALS

WHEREAS, the Consenting Party (for itself and as assignee of certain real property relating to the Project, defined below, from County Disposal [Illinois], Inc., a Delaware corporation) and RTC have entered into an Agreement (including any and all addendums, exhibits, riders or any other attachments thereto) dated December 21, 1995 relating to the construction and operation of four (4) certain gas collection facilities and gas to electric generating plants (as amended, restated, modified or otherwise supplemented from time to time in accordance with the terms thereof, the "Project Agreement");

WHEREAS, as the date hereof, the Project Agreement has now been assumed solely with regard to that certain gas collection facility and gas to electric generating plant located on the premises owned by the Consenting Party located at RR3 14206 East 2100 North Road, Pontiac, Illinois (the "Project");

WHEREAS, Aquila and RTC have entered, or will enter, into that certain Credit Agreement on or about of even date herewith (as amended, restated, modi-

fied or otherwise supplemented from time to time in accordance with the terms thereof, the "Credit Agreement"), pursuant to which Aquila will extend credit to RTC for the purpose of financing the cost of, and providing certain credit support for, the operation of the Project and certain related expenses (the "Loans");

WHEREAS, as security for the Loans and all other obligations under the Credit Agreement, RTC has granted or will grant a security interest in, the Project, the Project Agreement, the Ancillary Agreements (defined below) and the other collateral (the "Aquila Collateral") described in that certain Security Agreement dated on or about of even date herewith between RTC, as debtor, and Aquila, as secured party (as amended, restated, modified or otherwise supplemented from time to time, the "Aquila Security Agreement");

WHEREAS, RTC and Pontiac Business Trust, a Delaware business trust ("PBT") have, with Consenting Party's acknowledgment and consent, entered into those two (2) certain Landfill Gas Rights and Collection System Leases (the "Leases") dated April 10, 2002 and certain Landfill Gas Sales Agreements dated April 10, 2002 relating to the Project (the "Gas Sales Agreements"), (the Leases and the Gas Sales Agreements, hereinafter, collectively, the "Ancillary Agreements");

WHEREAS, RTC is a debtor in a bankruptcy case currently pending in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court") as case number 99 B 35434;

WHEREAS, certain adversary proceedings are pending in the Bankruptcy Court as case number 00 A 00973 (the "Adversary Proceedings");

WHEREAS, pursuant to that certain Stipulation Relating to Assumption of Allied Waste Industries, Inc. Agreement Respecting Pontiac Landfill Site filed with the Bankruptcy Court on January 8, 2002 (the "Stipulation"), Consenting Party and RTC have stipulated to certain issues relating to the Project Agreement;

WHEREAS, it is a condition precedent to Aquila's obligations to make the Loans under the Credit Agreement that RTC and the Consenting Party execute and deliver this Consent.

NOW, THEREFORE, as an inducement to Aquila to make the Loans, and in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, the Consenting Party, Aquila and RTC hereby agree as follows:

1. CONSENT TO ASSIGNMENT, ETC.

a. Consent to Assignment. The Consenting Party (a) acknowledges that Aquila is entering into the Credit Agreement and making the Loans in reliance upon the execution and delivery by the Consenting Party of the Project Agreement and this Consent, (b) consents in all respects to the pledge and assignment of all of RTC's right, title and interest in, to and under the Aquila Collateral pursuant to the Aquila Security Agreement and (c) acknowledges the right, but not the obligation of Aquila's rights and remedies under the Aquila Security Agreement, to make all demands, give all notices, take all actions and exercise all rights of RTC in accordance with the Project Agreement, and agrees that in such event the Consenting Party shall continue to perform its obligations under the Project Agreement.

b. Substitute Owner. The Consenting Party agrees that, upon notice to the Consenting Party that an event of default under the Credit Agreement has occurred and is continuing and that Aquila has exercised its rights (a) to have itself or its designee substituted for RTC under the Project Agreement and/or one or more of the Ancillary Agreements or (b) to sell, assign, transfer or otherwise dispose of the Project Agreement and/or one or more of the Ancillary Agreements, then Aquila or Aquila's designee (each, a "Substitute Owner") may, subject to the following, at Aquila's option, be substituted for RTC under the Project Agreement and/or one or more of the Ancillary Agreements and that, in such event, the Consenting Party will continue to perform its obligations under the Project Agreement in favor of the Substitute Owner and consents to the Substituted Owner substituting the place of RTC under the Project Agreement and/or one or more of the Ancillary Agreements without interference by the Consenting Party. Any such designee of Aquila (i) shall be one of the parties referenced on Exhibit "B" attached hereto as such exhibit may be supplemented or amended from time to time by mutual agreement of Consenting Party and Aquila (each, a "Prior Approved Operator"), (ii) shall be a party who anticipates contracting with a Prior Approved Operator to perform the obligations under the Service Agreement and who (1) shall have experience in the operation of electric generating facilities, (2) shall not have a reputation in the banking or lending industry for having failed to honor its monetary obligations, (3) shall not have been (nor its officers have been) previously convicted of a felony which would reasonably be expected to have a material adverse effect on the Consenting Party and (4) shall not be in direct

competition with the Consenting Party in the same vicinity of the geographic area covered by the Project Agreement or (iii) shall be mutually satisfactory to the Consenting Party and Aquila; provided, however, that Aquila shall promptly provide notification to Consenting Party upon Aquila's election of such Substitute Owner.

c. Right to Cure. The Consenting Party agrees that in the event of a default by in the performance of any of its obligations under the Project Agreement, or upon the occurrence or nonoccurrence of any event or condition under the Project Agreement and/or one or more of the Ancillary Agreements which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable the Consenting Party to terminate or suspend its obligations or exercise any other right or remedy under the Project Agreement or under applicable law (hereinafter a "default"), the Consenting Party will continue to perform its obligations under the Project Agreement and will not exercise any such right or remedy under the Project Agreement until it first gives prompt written notice of such default to Aquila and affords Aquila or Aquila's designee (as the case may be) a period of at least thirty (30) days (or if such default is a nonmonetary default, such longer period not to exceed one hundred twenty (120) days as is required so long as any such party has commenced and is diligently pursuing appropriate action to cure such default) from receipt of such notice to cure such default; provided, however, that if any such party is prohibited from curing any such default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding involving. RTC, then the time periods specified in this Section 1.c for curing a

default shall be extended for the period of such prohibition. Notwithstanding anything to the contrary under this Agreement, any cure period specifically addressed in Section 8B(I) and 8B(II) of the Stipulation shall not be affected in any manner by this Agreement.

d. No Termination, Assignment or Material Amendments. The Consenting Party will not, without the prior written consent of Aquila, enter into any consensual cancellation or termination of any of the Project Agreement, or assign or otherwise transfer any of its right, title and interest thereunder or consent to any such assignment or transfer by RTC. The Consenting Party will not enter into any amendment, supplement or other modification of the Project Agreement (an "Amendment") if such action could reasonably be expected to have a Material Adverse Effect as hereinafter defined until after Aquila has been given ten (10) days (excluding Saturdays, Sundays and any days which are a legal holiday in Texas or any days on which banking institutions are authorized or required by law or government action to close) prior written notice of the proposed Amendment by RTC (a copy of which will be provided to the Consenting Party by RTC) and will not then enter into such Amendment if the Consenting Party has within such ten (10) day period received a copy of (i) Aquila's objection to such Amendment or (ii) Aquila's request to RTC for additional information with respect to such Amendment. For purposes of Section 1 only, the term "Material Adverse Effect" shall mean any act, event or circumstance (including the enactment, promulgation or adoption of any applicable law) that has or could reasonably be expected to have a material adverse effect on (i) the operations, business, con-

dition (financial or otherwise), prospects or property of the Project, RTC, PBT or the Consenting Party, (ii) the development, design, engineering, construction, completion, ownership, operation or maintenance of the Project, (iii) the ability of RTC, PBT or the Consenting Party to observe the provisions of, and to perform their obligations under, any agreement or document related to the Project to which it is a party, (iv) the rights or interests of Aquila and (v) the validity, attachment, perfection, priority or enforceability of any lien granted or purported to be granted under the Aquila Security Agreement.

e. Replacement Agreement. In the event that the Project Agreement is terminated as a result of any bankruptcy or insolvency proceeding affecting RTC, the Consenting Party will, at the option of Aquila, enter into a new agreement with a party designated by Aquila having terms substantially the same as the terms of the Project Agreement.

f. No Liability. The Consenting Party acknowledges and agrees that Aquila shall not have any liability or obligation under the Project Agreement as a result of this Consent or otherwise, nor shall Aquila or Aquila's designee be obligated or required to perform any of RTC's obligations under the Project Agreement, except, in the case Aquila or Aquila's designee, during any period in which Aquila or Aquila's designee is a Substitute Owner pursuant to Section 1.b, in which case (i) the obligations of such Substitute Owner shall be no more than that of RTC under the Project Agreement and (ii) such Substitute Owner shall have no liability to the Consenting Party for the performance of obligations or liabilities to Consenting Party or any other party arising from RTC's ownership and/or operation of any portion of the Project or

under the Service Agreement prior to the date Aquila or its designee becomes the Substitute Owner.

g. Performance under Assigned Agreement. The Consenting Party shall perform and comply with all material terms and provisions of the Project Agreement to be performed or complied with by it and shall maintain the Project Agreement in full force and effect in accordance with its terms.

h. Delivery of Notices. The Consenting Party shall deliver to Aquila, concurrently with the delivery thereof to RTC, a copy of each notice, request or demand given by the Consenting Party pursuant to the Project Agreement.

i. Acknowledgments. The Consenting Party agrees to execute such acknowledgments or other similar instruments as Aquila shall reasonably request in connection with the transactions provided for in this Consent.

j. Filing. The Consenting Party agrees that Aquila and/or RTC may file this Consent, the Project Agreement or a memorandum of either such document with the Secretary of the State of Illinois or with the applicable county recorder's office.

2. PAYMENTS UNDER THE PROJECT AGREEMENT

a. Payments. The Consenting Party will pay all amounts payable by it under the Project Agreement, if any, in the manner required by the Project Agreement directly into the account specified on Exhibit A hereto (the "Payment Instructions"), or to such other person or account as shall be specified from time to time by Aquila to the Consenting Party in writing.

b. No Offset, etc. All payments required to be made by the Consenting Party under the Project Agreement shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, except as specifically permitted under the Project Agreement.

3. REPRESENTATIONS AND WARRANTIES OF THE CONSENTING PARTY

In order to induce Aquila to enter into the Credit Agreement and to make the Loans, the Consenting Party makes the following representations and warranties, which shall survive the execution and delivery of this Consent and the Project Agreement and the consummation of the transactions contemplated hereby and thereby.

a. Organization; Power and Authority. The Consenting Party is an entity formed as set forth in the preamble hereof, duly organized, validly existing and in good standing under the laws of the state of its formation, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, and has all requisite power and authority to enter into and to perform its obligations hereunder and under the Project Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

b. Authorization. The execution, delivery and performance by the Consenting Party of this Consent and the Project Agreement have been duly authorized by all necessary corporate action on the part of the Consenting Party and do not require any approval or consent of any holder (or any trustee for

any holder) of any indebtedness or other obligation of (a) the Consenting Party or (b) any other person or entity, except approvals or consents which have previously been obtained.

c. Execution and Delivery; Binding Agreements. Each of this Consent and the Project Agreement is in full force and effect, has been duly executed and delivered on behalf of the Consenting Party by the appropriate officer of the Consenting Party and constitutes the legal, valid and binding obligation of the Consenting Party, enforceable against the Consenting Party in accordance with its terms except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

d. Litigation. Except with regard to the Adversary Proceedings and as otherwise addressed in the Stipulation, there is no legislation, litigation, action, suit, proceeding or investigation pending or (to the best of the Consenting Party's knowledge after due inquiry) threatened against the Consenting Party before or by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate, (a) could adversely affect the performance by the Consenting Party of its obligations hereunder or under the Project Agreement, or which could modify or otherwise adversely affect the Approvals (as defined in Section 3.0, (b) questions the validity, binding effect or enforceability hereof or of the Project Agreement, any action taken or to be taken pursuant hereto or thereto or any of the transactions

contemplated hereby or thereby or (c) could have a material adverse effect upon (i) the business, operations, properties, assets, or condition (financial or otherwise) of the Consenting Party, (ii) the ability of the Consenting Party to perform under the Project Agreement or this Consent, (iii) the business, operations, properties, assets, prospects or condition (financial or otherwise) of the Project, (iv) the value, validity, perfection and enforceability of the liens granted under the Aquila Security Agreement and other security documents or (v) the ability of Aquila to enforce any of their material rights and remedies under the Aquila Security Agreement or this Consent (collectively, a "Material Adverse Effect").

e. Compliance with Other Instruments, etc. The Consenting Party is not in violation of its organizational documents, and the execution, delivery and performance by the Consenting Party of this Consent and the Project Agreement and the consummation of the transactions contemplated hereby and thereby will not result in any violation of, breach of or default under any term of its partnership agreement, or of any contract or agreement to which it is a party or by which it or its property is bound, or of any license, permit, franchise, judgment, writ, injunction, decree, order, charter, law, ordinance, rule or regulation applicable to it, except for any such violations which, individually or in the aggregate, would not have a Material Adverse Effect on the Consenting Party.

f. Government Consent. No consent, order, authorization, waiver, approval or any other action, or registration, declaration or filing with, any person, board or body, public or private, is required to be obtained by the Consenting Party in connection with the execution, delivery or performance of the Project

Agreement or the consummation of the transactions contemplated thereunder.

g. No Default or Amendment. The Consenting Party and, to the best of the Consenting Party's knowledge after due inquiry, no other party to the Project Agreement or the Ancillary Documents is in default of any of its obligations thereunder. The Consenting Party does not have existing counterclaims, offsets or defenses against RTC. The Consenting Party and, to the best of the Consenting Party's knowledge after due inquiry, each other party to the Ancillary Agreements have complied with all conditions precedent to the respective obligations of such party to perform under the Project Agreement and the Ancillary Agreements. To the best of the Consenting Party's knowledge after due inquiry, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either the Consenting Party or RTC to terminate or suspend its obligations under the Project Agreement or the Ancillary Agreements. Neither the Project Agreement nor the Ancillary Agreements have been amended, modified or supplemented in any manner.

h. No Previous Assignments. The Consenting Party has no notice of, and has not consented to, any previous assignment of all or any part of its rights under the Project Agreement or the Ancillary Agreements.

i. Representations and Warranties. All representations, warranties and other statements made by the Consenting Party in the Project Agreement were true and correct as of the date when made and are true and correct as of the date of this Consent

4. MISCELLANEOUS

a. Notices. All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the party or parties to whom such notice is addressed, shall refer on their face to the Project Agreement (although failure to so refer shall not render any such notice of communication ineffective), shall be sent by first class mail, by personal delivery, by facsimile or by a nationally recognized courier service, and shall be directed as follows:

If to the Consenting Party:	Allied Waste Industries, Inc. 13832 S. Kostner Crestwood, Illinois 60445 Attention: Dan Gorske, Regional Vice President North Central Division -Allied Waste Industries Fax: 708-824-3066
If to RTC:	Resource Technology Corporation 330 S. Wells Street, Suite 711 Chicago, Illinois 60606 Attention: John Connolly Fax: (312) 341-9596
If to Aquila:	Aquila Energy Capital Corporation 7101 Mercy Road, Suite 320 Omaha, Nebraska 68106 Attention: John G. Hall Fax: (402) 926-4185
with a copy to:	Aquila Energy Capital Corporation 909 Fannin Street, Suite 1850 Houston, Texas 77010-1007 Attention: Mike Fiuzat Fax: (713) 336-7404

The above parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

b. Governing Law. THIS CONSENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICTS OF LAW).

c. Counterparts. This Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

d. Headings Descriptive. The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.

e. Severability. In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

f. Amendment, Waiver. Neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, Waived or modified except by an instrument in writing signed by the Consenting Party, RTC and Aquila.

g. Termination. The Consenting Party's obligations hereunder are absolute and unconditional, and the Consenting Party has no right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until all Loans and all other obligations under the Credit Agreement have been indefeasibly satisfied in full, notice of which shall be provided by Aquila when all such obligations have been satisfied.

In the event that the Loans are refinanced or replaced by other credit facilities, this Consent shall continue in effect for the benefit of RTC and the provider of such new credit facilities (the "New Lender") provided that (i) within five (5) days following delivery by Aquila to the Consenting Party of the notice from Aquila as provided in this Section 4.g that the original Loans and all other obligations under the Credit Agreement have been indefeasibly satisfied in full, the New Lender or an agent, trustee or other representative of the New Lender, shall have notified the Consenting Party, that it assumes the rights and the prospective obligations of the Aquila under this Consent, and shall have supplied substitute notice address information for Section 4.a and new Payment Instructions (countersigned on behalf of RTC), (ii) the amount of the new credit facilities do not exceed the original amount of commitments by Aquila to make loans and extend other credit facilities under the original Credit Agreement and (iii) thereafter, (a) the term "Loans" under this Consent will be deemed to refer to the new credit facilities, (b) the term "Lender" shall be deemed to refer to the New Lender or any agent or trustee for the New Lender, (c) the term "Credit Agreement" shall be deemed to refer to the credit agreement, indenture or other instrument providing for the new

credit facilities and (d) the term "Aquila Security Agreement" shall be deemed to refer to the security agreement under which the Project Agreement, the Ancillary Agreements and other collateral is assigned as "collateral" to secure performance of the obligations of the RTC under the new credit facilities.

h. Successors and Assigns. This Consent shall be binding upon the parties hereto and their permitted successors and assigns and shall inure to the benefit of the parties, their designees and their respective permitted successors and assigns.

i. Further Assurances. The parties hereto hereby agree to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

j. Waiver of Trial by Jury. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE CONSENTING PARTY, RTC AND AQUILA HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT.

k. Survival. All agreements, statements, representations and warranties made by the Consenting Party herein shall be considered to have been relied upon by Aquila and shall survive the execution and delivery of this Consent.

1. No Waiver; Remedies Cumulative. No failure or delay on the part of Aquila in exercising any right, power or privilege hereunder and no course of dealing among the Consenting Party, and Aquila shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other exercise, or the further

exercise, of any other right, power or privilege hereunder. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which Aquila would otherwise have.

[Signature page follows]

IN WITNESS WHEREOF, the Consenting Party, RTC and Aquila have caused this Consent to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

AMERICAN DISPOSAL SERVICES, INC.

By: [Illegible]
Name: [Ilegible]
Title: Regional Vice President

ALLIED WASTE INDUSTRIES, INC.

By: [Illegible]
Name: [Illegible]
Title: Regional Vice President

RESOURCE TECHNOLOGU CORPORATION

By: /s/ John Connolly
JOHN CONNOLLY
President

AQUILA ENERGY CAPITAL ORPORATION

By: /s/ John G. Wall
JOHN G. HALL
Vice President

RATIFICATION AND AGREEMENT OF PROJECT AGREEMENT AND CONSENT

AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC., a Delaware corporation, by execution of this Consent agrees and acknowledges (i) that AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC. is the fee title holder of the realty described hereinabove as it relates to the Project Agreement, notwithstanding that AMERICAN DISPOSAL SERVICES, INC. is the party to the Project Agreement and that AMERICAN DISPOSAL SERVICES, INC. and ALLIED WASTE INDUSTRIES are parties described above as the Consenting Party, (ii) that AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC. shall be bound as a Consenting Party by all the terms and conditions of the Consent to the full extent as AMERICAN DISPOSAL SERVICES, INC. and ALLIED WASTE INDUSTRIES are bound, (iii) that AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC. shall be bound by all the terms and conditions of the Project Agreement to the full extent as AMERICAN DISPOSAL SERVICES, INC. as if it were a party to that Project Agreement and (iv) each party to the Consent shall have the right to rely on a signature from AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC. delivered by facsimile transmission.

AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.

By: [Illegible]
Name: [Illegible]
Title: Regional Vice President

Exhibit A to Consent

PAYMENT INSTRUCTIONS

Payment Via Wire Transfer:

The Northern Trust - Chicago
ABA #071000152
Account: Resource Technology Corporation
Account #: 29424

Payment Via Lockbox

Resource Technology Corporation
75 Remittance Drive, Suite 1268
Chicago, IL 60675-1268

Exhibit B to Consent

PRIOR APPROVED OPERATORS

1. Waste Energy Technologies
   Attention: Terry Peterson
   11 Tupelo Ave. S.E.
   Ft. Walton Beach, FL 32548
   850-243-0033

2. USEnergy Biogas Corp.
   Attention: Michael Michaels
   N. 9558 Millhome Lane
   Kiel, WI 53042
   920-894-4088

3. Gas Recovery Systems, Inc.
   Attention: Walter Graziani
   1020 Serpentine Lane, Suite 110
   Pleasanton, CA 94566
   925 461-4400

4. Energy Developments
   Attention: Joel Goldberg
   7700 San Felipe, Suite 480
   Houston, TX 77063
   713-781-1613

5. Network Electric Company
   Attention: Randy Soule
   5425 Louie Lane
   Reno, NE 89511
   775-850-9100

APPENDIX G

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: November 15, 2005
Hearing Time: 9:30 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on Tuesday, November 15, 2005 at 9:30 a.m. or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy Judge Eugene R. Wedoff, or any other judge sitting in his stead, in Courtroom 744 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and then and there present the attached MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY, at which time and place you may appear as you see fit.

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

Barry A. Chatz
Miriam R. Stein
Joy E. Levy
ARNSTEIN & LEHR LLP
120 S. Riverside Plaza, Suite 1200
Chicago, IL 60606
Phone: (312) 876-7100
Fax: (312) 876-0288

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: November 15, 2005
Hearing Time: 9:30 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY

Jay A. Steinberg, not individually, but solely as the Chapter 7 Trustee for the state of Resource Technology Corporation case (the "Trustee"), pursuant to Section 365,[1] respectfully moves this Court for entry of an order to extend time to assume or reject executory contracts and unexpired leases of nonresidential real property. In support of this Motion, the Trustee respectfully represents as follows:

BACKGROUND

1. On November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code was filed against Resource Technology Corporation (the "Debtor").

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[1] Unless otherwise noted, references to "Section __" are to the United States Bankruptcy Code 11 U.S.C. §§ 101 through 1330.

2. An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11.

3. Thereafter, Gregg E. Szilagy was appointed as the chapter 11 trustee.

4. On September 14, 2005, creditors of the Debtor's estate moved to convert the case to Chapter 7. On September 21, 2005, this court entered an order converting this case to Chapter 7.

5. Thereafter, Trustee was appointed as the Interim Chapter 7 Trustee. On November 4, 2005, the § 341 meeting of creditors was held and concluded. Trustee is now the permanent Trustee herein.

6. The Debtor is in the business of collecting and selling methane gas from landfills. As such, the Debtor is a party to numerous landfill agreements.

JURISDICTION

7. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case in this District is appropriate under 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

8. By this Motion, the Trustee requests entry of an order, pursuant to section 365(d), extending the time within which the Trustee may assume or reject executory contracts or unexpired leases of nonresidential real property until January 31, 2006, without prejudice to the Trustee's right to request additional extensions, if necessary.

9. The Debtor is a party to numerous contracts and leases for the various landfill sites from which it

operates. Specifically, the Debtor is party to the following agreements:

Site	Agreement's Expiration Date	By Which Notice Of Intent To Date Extend Contract Must Be Sent
Beecher	April 24, 2005	February 23, 2005
Belvidere	August 11, 2003	May 13, 2003
Bi-State	October 27, 2005	September 27, 2005
Bloomington	December 29, 2005	October 30, 2005
Chastang (Mobile)	December 23, 2006	November 23, 2006
Clarion	December 21, 2005	November 21, 2005
Columbus	August 15, 2005	July 16, 2005
Congress	November 29, 2006	None, but parties have a mutual obligation to advise the other of certain changes
Corpus Cristi (Elliott)	November 26, 2006	October 27, 2006
Danville	December 20, 2006	September 20, 1996
Fort Dodge	October 28, 2009	September 28, 2009
Gary	December 26, 2006	June 26, 2006
Gnol	September 18, 2006	August 18, 2006
Lansing	April 24, 2005	February 21, 2005
Litchfield	December 30, 2006	November 30, 2006
Lyons	December 27, 2005	September 27, 2005
New Haven	December 31, 2006	November 30, 2006
Ottawa	April 15, 2007	January 15, 2007

Paxton	December 21, 2005	November 21, 2005
Peoria	November 30, 2005	October 31, 2005
Pontiac	December 21, 2005	November 21, 2005
Rosencranse	Term indefinite so RTC can obtain permit. If no permit issued, expiration is December 31, 1006	October 31, 2006
Sangamon (Springfield)	May 26, 2005	April 26, 2005
Shelton	April 10, 2014	NONE
Taylor Ridge	May 26, 2010	April 26, 2010
Viola	August 1, 2006	July 1, 2006
Wheatland	December 21, 2005	November 21, 2005
Wyandot	December 21, 2005	November 21, 2005

(the "Agreements"). There may be additional agreements which the Trustee will uncover in his administration of this estate. As such, the Trustee reserves the right to supplement this Motion, with proper notice given to all interested parties, prior to the hearing on this Motion.

10. It is the Trustee's position that each individual Agreement is properly characterized as an executory contract within the meaning of Section 365(a) due to the fact that reciprocal, continuing, and material obligations are owed by the Debtor with respect to each Agreement.

BASIS FOR RELIEF

11. Under section 365(d), the initial 60 day period within which the Trustee must assume or reject

executory contracts and unexpired nonresidential real property leases expires November 20, 2005.

12. Due to the recent conversion of this case to Chapter 7 and the emergent issues related thereto that the Trustee has been required to handle, the Trustee is just beginning his review of the Agreements. Accordingly, until the Trustee completes his initial evaluation, he's unable to determine at this early juncture which of the Agreements needs to be assumed, assumed and assigned or rejected.

13. Premature assumption or rejection of the Agreements could materially affect the value of the estate's assets, as well as the dollar amount of claims against the estate.

14. The decision to assume or reject cannot be made property and responsibly without an extension of time under Section 365(d).

LEGAL AUTHORITY

15. Section 365(d)(1) provides:

> In a case under chapter 7 of this title, if the Trustee does not assume or reject an executory contract or unexpired lease . . . within 60 days after the order for relief, or within such additional time as the court, for cause within such 60 day period, fixes, then such contract or lease is deemed rejected.

11 U.S.C. § 365(d)(1). Further, Section 365(d)(4) provides:

> Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date

> of the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.

11 U.S.C. § 365(d)(4) (emphasis added).

16. Upon a showing of cause by a Trustee, courts may grant extensions of the time period by which a Trustee must either assume or reject unexpired leases on nonresidential real property. *See e.g., In the Matter of James Wilson Associates*, 965 F.2d 160, 164 (7th Cir. 1992) (affirming bankruptcy judge's power to extend time for election by debtor in possession to assume or reject an unexpired lease of nonresidential real property); *In re Eon Ton Restaurant and Pastry Shop, Inc.*, 52 B.R. 850, 855 (Bankr. N.D.III. 1985) (granting extension of the debtor's time to assume or reject leases); *see also In re Burger Boys*, 94 F.3d 755, 761 (2d Cir. 1996) (affirming extensions of time to assume or reject lease when cause is established).

17. The Agreements are vital to the operation of the Debtor's business and are, therefore, an integral component of any strategic business plan. Whether the Agreements are assumed or rejected will depend on several factors, including an analysis of the profitability of each of the locations out of which the Debtor operates. Until that time, assumption or rejection of the Agreements is premature and may in fact harm the estate.

18. The relief requested herein will not prejudice any parties in interest under the Agreements because the Trustee will make the required monthly payments attributable to the period following the date conversion of this case to Chapter 7.

19. Accordingly, there is ample cause for this Court to extend the time within which the Trustee may assume or reject the Agreements, through January 31, 2006, without prejudice to the Trustee's right to request additional extensions, if necessary.

NOTICE

20. Notice of this Motion has been given to: (a) all lessors and parties to the Agreements; (b) the Office of the United States Trustee; (c) the Debtor's creditors 20 largest unsecured creditors; and (d) other parties in interest who have requested service. In light of the nature of the relief requested herein, the Trustee submits that no further notice is required.

NO PRIOR REQUEST

21. No prior request for the relief sought in this Motion has been made to this Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order (i) extending the time to assume or reject executory contracts and unexpired leases of nonresidential real property through January 31, 2006; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: November 8, 2005

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

Barry A. Chatz
Miriam R. Stein
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER EXTENDING TIME FOR DEBTOR TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Extending the Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

2. The period of time by which the Trustee must assume or reject executory contracts and unexpired leases of nonresidential real property is hereby extended to January 31, 2006.

3. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property.

Dated: _____

ENTERED:

United States Bankruptcy Judge

APPENDIX H

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER REGARDING MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Motion ("Motion") of Jay A. Steinberg, not individually but solely in his representational capacity as Chapter 7 Trustee ("Trustee") for the Estate of Resource Technology Corporation ("Debtor") for an Order to Extend Time to Assume or Reject Executory Contracts and Unexpired Leases on Nonresidential Real Property. The Court finding notice to be sufficient and being fully advised in the premises,

IT IS HEREBY ORDERED that:

1. The Motion as it relates to the executory contracts and/or unexpired leases listed on the attached Exhibit A, is hereby entered and continued to November 22, 2005 at 10:00 a.m.

2. The deadline for the Trustee to assume or reject the executory contracts and/or unexpired leases

listed on the attached Exhibit B, is hereby extended to January 31, 2006.

3. The Trustee has withdrawn his request to extend the deadline to assume or reject the unexpired lease agreement relating to the Debtor's Lyons, Illinois site which expires on December 27, 2005.

4. This Order shall not prejudice the Trustee from seeking additional time to assume or reject the executory contracts and/or unexpired leases listed on either Exhibit A or S.

Dated: NOV 17, 2005

ENTERED:

/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
U.S. Chief Bankruptcy Judge

EXHIBIT A

MOTION OF TRUSTEE RELATING TO EXECUTORY CONTRACTS AND/OR LEASES LISTED BELOW IS CONTINUED TO NOVEMBER 22, 2005 AT 10:00 A.M.

Site	Agreements Expiration Date	Date By Which Notice Of Intent To Extend Contract Must Be Sent
Clarion	December 21, 2005	November 21, 2005
Columbus	August 15, 2005	July 16, 2005
Congress	November 29, 2006	None, but parties have a mutual obligation to advise the other of certain changes
Paxton	December 21, 2005	November 21, 2005
Rosencranse	Term indefinite so RTC can obtain permit. If no permit issued, expiration is December 31, 1006	October 31, 2006
Wheatland	December 21, 2005	November 21, 2005
Wyandot	December 21, 2005	November 21, 2005

EXHIBIT B

DEADLINE FOR TRUSTEE TO ASSUME OR REJECT THE EXECUTORY CONTRACTS AND/OR LEASES LISTED BELOW IS EXTENDED UNTIL JANUARY 31, 2006

SITE	AGREEMENTS EXPIRATION DATE	DATE BY WHICH NOTICE OF INTENT TO EXTEND CONTRACT MUST BE SENT
Beecher	April 24, 2005	February 23, 2005
Belvidere	August 11, 2003	May 13, 2003
Bi-State	October 27, 2005	September 27, 2005
Bloomington	December 29, 2005	October 30, 2005
Chastang (Mobile)	December 23, 2006	November 23, 2006
Corpus Cristi (Elliott)	November 26, 2006	October 27, 2006
Danville	December 20, 2006	September 20, 1996
Fort Dodge	October 28, 2009	September 28, 2009
Gary	December 26, 2006	June 26, 2006
Gnol	September 18, 2006	August 18, 2006
Lansing	April 24, 2005	February, 21, 2005
Litchfield	December 30, 2006	November 30, 2006
New Haven	December 31, 2006	November 30, 2006
Ottawa	April 15, 2007	January 15, 2007
Peoria	November 30, 2005	October 31, 2005
Pontiac	December 21, 2005	November 21, 2005

Sangamon (Springfield)	May 26, 2005	April 26, 2005
Shelton	April 10, 2014	NONE
Taylor Ridge	May 26, 2010	April 26, 2010
Viola	August 1, 2006	July 1, 2006

APPENDIX I

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor,

Agreed Order Extending the Deadline for the Trustee To Assume or Reject Executory Contracts and Unexpired Leases With American Disposal Services, Inc and Allied Waste Industries, Inc.

This matter coming before the Court on the Motions of Chapter 7 Trustee (not individually but solely as representative of the Estate of Resource Technology Corporation ("Trustee")) For An Order To Extend Time To Assume Or Reject Executory Contracts And Unexpired Leases Of Nonresidential Real Property filed on November 8, 2005 and November 16, 2005, and any supplemental filings thereto (the "Motions"), American Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively "Allied"), as the owner of certain landfills identified in those Motions, and the Trustee hereby stipulate and agree to the following terms of this Order; the Court finding notice of the Motions to be appropriate and being otherwise fully advised in the premises.

THE PARTIES HEREBY STIPULATE TO AND IT IS HEREBY ORDERED that:

1. In regards to the December 21, 1995 contract Involving the Pontiac Landfill site (a/k/a Livingston Landfill), Allied agrees to extend the time by which the Trustee can move to assume or reject the Pontiac Landfill portion of that contract until January 31, 2008.

2. In regards to that portion of the December 21, 1995 contract involving the Wheatland, Clarion and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), Allied agrees to extend the time by which the Trustee can move to assume or reject the Disputed Contract Sites portion of the contract to January 31, 2008. This stipulation shall not be deemed and shall not constitute an admission by Allied that RTC possesses any contract rights to or at the Disputed Contract Sites and, furthermore, nothing in this stipulation shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that Allied has that the Disputed Contract Sites portions of the December 21, 1995 contract were validly terminated by Allied prior to the date of this Order.

3. In regards to the Bloomington, Litchfield, and Sangamon (a/k/a Springfield) landfill sites, and only to the extent RTC possesses any contract rights to or at the Bloomington[1], Sangamon[2] and

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[1] This Order specifically includes the agreement between the Debtor and Secton relating to the Bloomington site.

[2] This Order specifically includes the agreement between the Debtor and ESG Watts relating to the Springfield/Sangamon site.

Litchfield[3] landfill sites, Allied agrees to extend the time by which the Trustee can move to assume or reject such contracts between RTC and Allied (and/or any Allied subsidiary) to January 31, 2005 provided, however, that nothing in this stipulation shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this stipulation shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that Allied (and/or any Allied subsidiary) may have that any such contracts have expired or been terminated prior to the date of this Order.

Dated: 11/30/05

ENTERED:

/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
U.S. Bankruptcy Judge

Agreed:

Jay A. Steinberg, not individually but solely as Chapter 7 Trustee for the Estate of Resource Technology Corporation

By: _____
One of his Attorneys

American Disposal Services, Inc,

By: _____
One of its Attorneys

Allied Waste Industries, Inc.

By: _____
One of its Attorneys

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[3] This Order specifically includes the agreement between the Debtor and Liberty Waste Services relating to the Litchfield site.

APPENDIX J

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: January 24, 2006
Hearing Time: 10:00 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on Tuesday, January 24, 2006 at 10:00 a.m. or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy Judge Eugene R. Wedoff, or any other judge sitting in his stead, in Courtroom 744 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and then and there present the attached FOURTH MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY, at which time and place you may appear as you see fit.

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

Barry A. Chatz
Miriam R. Stein
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: January 24, 2006
Hearing Time: 10:00 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

FOURTH MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY

Jay A. Steinberg, not individually, but solely as the Chapter 7 Trustee for the estate of Resource Technology Corporation case (the "Trustee"), pursuant to Section 365,[1] respectfully moves this Court for entry of an order to further extend time to assume or reject certain executory contracts and unexpired leases of nonresidential real property, as listed on the attached Exhibit A to February 28, 2006. In support of this Motion, the Trustee respectfully represents as follows:

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[1] Unless otherwise noted, references to "Section __" are to the United States Bankruptcy Code 11 U.S.C., §§101 through 1330.

BACKGROUND

1. November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code was filed against Resource Technology Corporation (the "Debtor").

2. An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11.

3. Thereafter, Gregg E. Szilagy was appointed as the Chapter 11 Trustee.

4. On September 14, 2005, creditors of the Debtor's estate moved to convert the case to Chapter 7. On September 21, 2005, this court entered an order converting this case to Chapter 7.

5. Thereafter, Trustee was appointed as the Interim Chapter 7 Trustee. On November 4, 2005, the § 341 meeting of creditors was held and concluded. Trustee is now the permanent Trustee herein.

6. The Debtor is in the business of collecting and selling methane gas from landfills. As such, the Debtor is a party to numerous landfill agreements.

JURISDICTION

7. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case in this District is appropriate under 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

8. On November 8, 2005, the Trustee filed a Motion to extend time to assume or reject certain executory contracts and unexpired leases listed in

that motion. The Court granted the motion in part with respect to some leases and contracts, and entered and continued the motion with respect to others.

9. In supplemental motions, the Trustee sought to further extend the time to assume or reject, through and including January 31, 2006.

10. By this Motion, the Trustee is seeking similar relief—to extend the time to assume or reject executory contracts and unexpired leases pursuant to section 365(d) of the Bankruptcy Code—with respect to other leases and contracts entered into by the Debtor. The subject contracts and leases to this Motion are listed on the attached Exhibit A (collectively, the "Agreements"). The Trustee is seeking to extend the deadline to February 28, 2006.

LEGAL AUTHORITY

11. Section 365(d)(1) provides:

> In a case under chapter 7 of this title, if the Trustee does not assume or reject an executory contract or unexpired lease . . . within 60 days after the order for relief, or within such additional time as the court, for cause within such 60 day period, fixes, then such contract or lease is deemed rejected.

11 U.S.C. § 365(d)(1). Further, Section 365(d)(4) provides:

> Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, or within such additional

> time as the courts for cause, within such 60-day period, fixes, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.

11 U.S.C. § 365(d)(4) (emphasis added).

12. Upon a showing of cause by a Trustee, courts may grant extensions of the time period by which a Trustee must either assume or reject unexpired leases on nonresidential real property. *See e.g., In the Matter of James Wilson Associates*, 965 F.2d 160, 164 (7th Cir. 1992) (affirming bankruptcy judge's power to extend time for election by debtor in possession to assume or reject an unexpired lease of nonresidential real property); *In re Bon Ton Restaurant and Pastry Shop, Inc.*, 52 B.R. 850, 855 (Bankr. N.D.III. 1985) (granting extension of the debtor's time to assume or reject leases); *see also In re Burger Boys*, 94 F.3d 755, 761 (2d Cir. 1996) (affirming extensions of time to assume or reject lease when cause is established).

13. The Trustee anticipates closing the sale of assets to DTE Biomass Energy, Inc., or such higher bidder (the "Closing") on or about February 6, 2006.

14. The sale of assets to DTE requires the rejection of certain contracts. However, until the sale is approved and closes, the Trustee is not in a position to either assume or reject the Agreements.

15. There is ample cause for this Court to extend the time within which the Trustee may assume or reject the Agreements to February 28, 2006, without prejudice to the Trustee's right to request additional extensions, if necessary.

16. It is in the best interest of all creditors of the Debtor's estate, to extend the time for the Trustee

to assume or reject the Agreements to February 28, 2006.

NOTICE

17. Notice of this Motion has been given to: (a) all lessors and parties to the Agreements; (b) the Office of the United States Trustee; (c) the Debtor's 20 largest unsecured creditors; and (d) other parties in interest who have requested service. In light of the nature of the relief requested herein, the Trustee submits that no further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order (i) extending the time to assume or reject the Agreements through February 28, 2006; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: January 18, 2006

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

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Miriam R. Stein
Joy E. Levy
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Phone: (312) 876-7100 / Fax: (312) 876-0288

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloomington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/ Commonwealth Edison (Power Purchase Agreement)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Columbus	08/15/1995	City of Columbus, GA	February 28, 2006
Corpus Cristi (Elliott)	11/26/1996	City of Corpus Christi Texas Energy Transfer (Gas Sales Agreement)	February 28, 2006
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Iowa Regional Solid Waste Agency	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agreement)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Commonwealth Edison Purchase Agreement) (Power Agreement)	February 28, 2006
Kewanee		National Closure Corporation	February 28, 2006
Lansing	04/24/1995	John Sexton Contractors Sexton Companies Commonwealth Edison (Power Purchase Agreement) National Closure Corporation	February 28, 2006
Litchfield	12/30/1996	Liberty Waste Services of Ohio Allied Waste Industries	February 28, 2006
Lyons/ McCook	12/27/1995	American Grading Company Commonweaith Edison (Power Purchase Agree-ment) Run Energy (O&M Agreement)	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
Mobile, AL		Texas Energy Transfer / Mobile Gas (Gas Sales Agreement)	February 28, 2006
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agreement)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Paxton	12/21/1995	Stryker International, Inc.	February 28, 2006
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006
Pontiac	12/21/1995	Solar Turbines (O&M Agree-ment) Common-wealth Edison (Power Purchase Agreement) Nicor Gas	February 28, 2006
Rosencranse	12/31/1996	Rosencranse Corporation	February 28, 2006
Sangamon (Springfield)	05/26/1995	ESG Watts, Inc. Commonwealth Edison/CILCO (Power Purchase Agreement)Allied Waste Industries	February 28, 2006
Shelton	04/10/1994	Connecticut Re-sources Recovery United Illumi-nating Co.	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
Taylor Ridge	05/26/1995	ESG Watts, Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts, Inc.	February 28, 2006
Wheatland	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agreement (ALL SITES)		Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agreements (ALL SITES)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		Pontiac Business Trust	February 28, 2006
Gas Sales Agreement (ALL SITES)		Pontiac Business Trust	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
O&M Agreements (ALL SITES)		Pontiac Business Trust	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		AECC Pontiac LLC	February 28, 2006
Gas Sales Agreement (ALL SITES)		AECC Pontiac LLC	February 28, 2006
O&M Agreements (ALL SITES)		AECC Pontiac LLC	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		Red Gas, LLC	February 28, 2006
Gas Sales Agreement (ALL SITES)		Red Gas, LLC	February 28, 2006
O&M Agreements (ALL SITES)		Red Gas, LLC	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (ALL SITES)		Archimedes Gas & Electric, Inc.	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
O&M Agreements (ALL SITES)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Rights and Collection Facilities Lease (ALL SITES)		Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (ALL SITES)		Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agreements (ALL SITES)		Voltaire Gas & Electric, Inc.	February 28, 2006
Multi-site Environmental Permitting/ Monitoring		Trinity Consultants	February 28, 2006
Waste Condensate Disposal		RS Used Oil	February 28, 2006
Environmental Monitoring Software		Enviance, Inc.	February 28, 2006
Credit Agreement between RTC and Aquila Energy Capital	4/10/2002	Aquila Energy Capital Corporation	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
AGC Document No 415 Standard Form of Design Build Agreement (Beecher)	08/09/2000	Network Electric	February 28, 2006
Construction Loan Agreement ($513,592.06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
Construction Loan Agreement $2,721,507.94) (Beecher)	12/08/2000	Network Electric	February 28, 2006
Equipment Lease Agreement (Beecher)	12/08/2000	Network Electric	February 28, 2006
Performance Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006

Site/ Facility	Date Of Agreement (If Avail.)	Party(ies) To Agreement(s)	Extension Date
Confidentiality Agreement (Beecher)	04/11/2000	Network Electric	February 28, 2006
Letter Agreement (Beecher)	04/16/2000	Network Electric	February 28, 2006
Participation Agreement (Beecher)	06/2000	Network Electric	February 28, 2006
Plant Upgrading Loan Agreement (Beecher)	08/11/2000	Network Electric	February 28, 2006
Phone/Internet Service		Loop Telecommunications	February 28, 2006
Headquarters		RN Realty (Office Rent)	February 28, 2006

APPENDIX K

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER FURTHER EXTENDING TIME FOR TRUSTEE TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Second Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Further Extending the Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. With respect to certain landfills identified on Exhibit A which are owned by American Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively, along with its respective subsidiaries and affiliates, "Allied"):

(a) In regards to that portion of the December 21, 1995 contract involving the Wheatland, Clarion and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), the time by which the Trustee can move to assume or reject the Disputed Contract Site portion of the contract is extended to February 28, 2006.

(b) In regards to the Bloomington, Litchfield, and Sangamon (a/k/a Springfield) landfill sites, and only to the extent RTC possesses any contract rights to or at the Bloomington[1], Sangamon[2] and Litchfield[3] landfill sites, the time for the Trustee to move to assume or reject such contracts is extended to February 28, 2006.

2. The Trustee's time to assume or reject the executory contract and/or unexpired lease of nonresidential real property dated August 15, 1995 between the Debtor and the City of Columbus, Georgia is extended to February 14, 2006.

3. The Trustee withdraws its request to extend the time to assume or reject with respect to the contract dated December 31, 1996 between the Debtor and the Rosencranse Corporation.

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[1] This Order specifically includes the agreement between the Debtor and Sexton relating to the Bloomington site.

[2] This Order specifically includes the agreement between the Debtor and ESG Watts relating to the Springfield/Sangamon site.

[3] This Order specifically includes the agreement between the Debtor and Liberty Waste Services relating to the Litchfield site.

4. The time for the Trustee to assume or reject all other executory contracts and/or unexpired leases of nonresidential real property listed on the attached Exhibit A is hereby extended to February 28, 2006.

5. Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such contracts may have that such contracts have expired and/or been terminated prior to the date of this Order.

6. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property, including the Agreements.

Dated: 1/27/06 ENTERED:

/s/ Eugene R. Wedoff
Eugene R. Wedoff
United States Bankruptcy Judge

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloom-ington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/Comm onwealth Edison (Power Pur-chase Agree-ment)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Columbus	08/15/1995	City of Co-lumbus, GA	February 14, 2006
Corpus Cristi (Elliott)	11/26/1996	City of Corpus Christi Texas Energy Trans-fer (Gas Sales Agreement)	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s) .	Extension Date
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Regional Solid Waste Agency	February 28, 2006
Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Common-wealth Edi-son (Power Purchase Agreement)	February 28, 2006
Kewanee		National Closure Cor-poration	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Lansing	04/24/1995	John Sexton Contractors Sexton Com-panies Com-monwealth Edison (Power Purchase Agreement) National Closure Corporation	February 28, 2006
Litchfield	12/30/1996	Liberty Waste Services of Ohio Allied Waste Indus-tries	February 28, 2006
Lyons/ McCook	12/27/1995	American Grading Company Common-wealth Edison (Power Pur-chase Agree-ment) Run Energy (O&M Agreement)	February 28, 2006
Mobile, AL		Texas Energy Transfer/ Mobile Gas (Gas Sales Agreement)	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Paxton	12/21/1995	Stryker International Inc.	February 28, 2006
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006
Pontiac	12/21/1995	Solar Turbines (O&M Agreement) Common-wealth Edison Power Purchase Agreement) Nicor Gas	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Sangamon (Spring-field)	05/26/1995	ESG Watts, Inc. Common-wealth Edi-son/ CILCO (Power Pur-chase Agreement) Allied Waste Industries	February 28, 2006
Shelton	04/10/1994	Connecticut Resources Recovery United Illuminating Co.	February 28, 2006
Taylor Ridge	05/26/1995	ESG Watts Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts Inc.	February 28, 2006
Wheat-land	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
Gas Rights and Collection Facilities Lease (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agreement (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agreements (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Rights and Collection Facilities (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Sales Agreement (All Sites)		Pontiac Business Trust	February 28, 2006
O&M Agreements (All Sites)		Pontiac Business Trust	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		AECC Pontiac LLC	February 28, 2006
O&M Agree-ments (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Red Gas, LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		Red Gas, LLC	February 28, 2006
O&M Agree-ments (All Sites)		Red Gas, LLC	February 28, 2006

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
Gas Rights and Collection Facilities Lease (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Rights and Collection Facilities Lease (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Multi-site Environm ental Per-mitting/ Monitor-ing		Trinity Consultants	February 28, 2006
Waste Conden-sate Dis-posal		RS Used Oil	February 28, 2006
Environ-mental Monitor-ing Soft-ware		Enviance, Inc.	February 28, 2006
Credit Agree-ment be-tween RTC and Aquila En-ergy Capi-tal	04/10/2002	Aquila Energy Capi-tal Corpora-tion	February 28, 2006
AGC Document No. 415 Standard Form of Design Build Agree-ment (Beecher)	08/09/2000	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Constructi on Loan Agree-ment ($513,592. 06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
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Equip-ment Lease Agree-ment (Beecher)	12/08/2000	Network Electric	February 28, 2006
Performa nce Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Confiden-tiality Agree-ment (Beecher)	04/11/2000	Network Electric	February 28, 2006
Letter Agree-ment (Beecher)	04/16/200	Network Electric	February 28, 2006
Participa-tion Agree-ment (Beecher)	06/2000	Network Electric	February 28, 2006
Plant Upgrad-ing Loan Agree-ment (Beecher)	08/11/2000	Network Electric	February 28, 2006
Phone/ Internet Service		Loop Telecom-munications	February 28, 2006
Headqua-ters		RN Realty (Office Rent)	February 28, 2006

APPENDIX L

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7 Proceeding
Case No. 99 B 35434
Hon. Eugene R. Wedoff

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF TRANSFER OF CLAIM NO. 174
PURSUANT TO FED. R. BANKR. P. 3001(e)

To: (Transferor)

Aquila Energy Capital Corporation
20 W. 9th Street
Kansas City, Missouri 64105

Concert Capital Resources, LP
Concert Capital Resources A, LP
Concert Capital Resources B, LP
Concert Capital Resources C, LP
Concert Capital Resources A/B, LP
909 Fannin, Ste. 1850
Houston, Texas 77010

Pia N. Thompson
Sonnenschein Nath & Rosenthal LLP
8000 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

AECC Pontiac LLC

20 W. 9th Street
Kansas City, Missouri 64105

John F. Higgins
Porter & Hedges, L.L.P.
1000 Main Street, 36th Floor
Houston, Texas 77002

All claims held by Aquila Energy Capital Corporation, Concert Capital Resources, LP, AECC Pontiac LLC, Concert Capital Resources A, LP, Concert Capital Resources B, LP, Concert Capital Resources C, LP, Concert Capital Resources A/B, LP, (collectively, the "Transferors) in the above-referenced

bankruptcy case, whether unsecured, secured, administrative or otherwise have been transferred to:

Scattered Corporation
330 S. Wells
Room 718
Chicago IL 60606

No action is required if the Transferors do not object to the transfer of their claims. However, IF THE TRANSFERORS OBJECT TO THE TRANSFER OF THEIR CLAIMS, WITHIN 20 DAYS OF THIS NOTICE, THE TRANSFERORS MUST FILE A WRITTEN OBJECTION TO THE TRANSFER with:

United States Bankruptcy Court
Northern District of Illinois, Eastern Division
219 S. Dearborn Street, 7th Floor
Chicago Illinois 60604

SEND A COPY OF TRANSFERORS' OBJECTION TO THE TRANSFEREE

If the Transferors file an objection, a hearing will be scheduled. IF TRANSFERORS' OBJECTION IS NOT TIMELY FILED, THE TRANSFEREE WILL BE SUBSTITUTED ON THE COURT'S RECORDS AS THE CLAIMANT

Respectfully submitted this 2nd day of February 2006

SCATTERED CORPORATION

By: /s/ Gregory J. Jordan
One of Its Attorneys

Gregory Jordan (ARDC # 6205510)
Dykema Gossett PLLC
10 South Wacker Drive #2300
Chicago, IL 60606
(312) 627-2171 Telephone
(866) 698-0830 Facsimile

APPENDIX M

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: February 28, 2006
Hearing Time: 10:00 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on Tuesday, January 28, 2006 at 10:00 a.m. or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy Judge Eugene R. Wedoff, or any other judge sitting in his stead, in Courtroom 744 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and then and there present the attached FIFTH MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY, at which time and place you may appear as you see fit.

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Miriam R. Stein
One of his Attorneys

Barry A. Chatz
Miriam R. Stein
ARNSTEIN & LEHR LLP
120 S. Riverside Plaza, Suite 1200
Chicago, IL 60606
Phone: (312) 876-7100
Fax: (312) 876-0288

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: February 28, 2006
Hearing Time: 10:00 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

FIFTH MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER TO EXTEND TIME TO ASSUME OR REJECT CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY

Jay A. Steinberg, not individually, but solely as the Chapter 7 Trustee for the estate of Resource Technology Corporation case (the "Trustee"), pursuant to Section 365,[1] respectfully moves this Court for entry of an order to further extend time to assume or reject certain executory contracts and unexpired leases of nonresidential real property, as listed on the attached Exhibit A to April 28, 2006. In support of this Motion, the Trustee respectfully represents as follows:

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[1] Unless otherwise noted, references to "Section __" are to the United States Bankruptcy Code 11 U.S.C., §§101 through 1330.

BACKGROUND

1. On November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code was filed against Resource Technology Corporation (the "Debtor").

2. An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11.

3. Thereafter, Gregg E. Szilagy was appointed as the Chapter 11 Trustee.

4. On September 14, 2005, creditors of the Debtor's estate moved to convert the case to Chapter 7. On September 21, 2005, this court entered an order converting this case to Chapter 7.

5. Thereafter, Trustee was appointed as the Interim Chapter 7 Trustee. On November 4, 2005, the § 341 meeting of creditors was held and concluded. Trustee is now the permanent Trustee herein.

6. The Debtor is in the business of collecting and selling methane gas from landfills. As such, the Debtor is a party to numerous landfill agreements.

JURISDICTION

7. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case in this District is appropriate under 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

8. On November 8, 2005, the Trustee filed a Motion to extend time to assume or reject certain executory contracts and unexpired leases listed in that motion. The Court granted the motion in part

with respect to some leases and contracts, and entered and continued the motion with respect to others.

9. In supplemental motions, the Trustee sought to further extend the time to assume or reject, through and including February 28, 2006.

10. By this Motion, the Trustee is seeking similar relief—to extend the time to assume or reject executory contracts and unexpired leases pursuant to section 365(d) of the Bankruptcy Code—with respect to other leases and contracts entered into by the Debtor. The subject contracts and leases to this Motion are listed on the attached Exhibit A (collectively, the "Agreements"). The Trustee is seeking to extend the deadline to April 28, 2006.

LEGAL AUTHORITY

Section 365(d)(1) provides:

> In a case under chapter 7 of this title, if the Trustee does not assume or reject an executory contract or unexpired lease . . . within 60 days after the order for relief, or within such additional time as the court, for cause within such 60 day period, fixes, then such contract or lease is deemed rejected.

11 U.S.C. § 365(d)(1). Further, Section 365(d)(4) provides:

> Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, *or within such additional time as the court, for cause, within such 60-day*

> *period, fixes*, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.

11 U.S.C. § 365(d)(4) (emphasis added).

12. Upon a showing of cause by a Trustee, courts may grant extensions of the time period by which a Trustee must either assume or reject unexpired leases on nonresidential real property. *See e.g., In the Matter of James Wilson Associates*, 965 F.2d 160, 164 (7th Cir. 1992) (affirming bankruptcy judge's power to extend time for election by debtor in possession to assume or reject an unexpired lease of nonresidential real property); *In re Bon Ton Restaurant and Pastry Shop, Inc.*, 52 B.R. 850, 855 (Bankr. N.D.III. 1985) (granting extension of the debtor's time to assume or reject leases); see also *In re Burger Boys*, 94 F.3d 755, 761 (2d Cir. 1996) (affirming extensions of time to assume or reject lease when cause is established).

13. On February 17, 2006, the Trustee filed a Motion for an Order Pursuant to 11 U.S.C. §363 and F.R.B.P. 9019 to (i) Approve Settlement (ii) Authorize the Conveyance and Abandonment of Certain Estate Assets (iii) Approve a Designation Rights Agreement (iv) Authorize the Disbursement of $250,000 to NEC and (v) Approve Shortened Notice (the "Settlement Motion"). The Settlement Motion seeks to convey the Estate's right, title and interest, if any, in certain contracts (including some of the contracts listed on Exhibit A) to Chiplease, Inc. or its designee. The Settlement Motion also seeks authority for the Estate to enter into a designation agreement with Chiplease pursuant to which the Estate would convey all of its designation rights, if any, to assume, assign or reject certain contracts pursuant to 11 U.S.C. §365, to

Chiplease (including some of the contracts listed on Exhibit A).

14. The Trustee believes that approval of the Settlement Motion is in the best interest of the estate for the reasons set forth in that motion. In order to proceed with the Settlement Motion, it is necessary for the Court to extend the deadline for the Estate to assume or reject the Agreements to April 28, 2006, to allow the Estate sufficient time to consummate the transaction contemplated by the Settlement Motion.

15. Based on the above, there is ample cause for this Court to extend the time within which the Trustee may assume or reject the Agreements to April 28, 2006, without prejudice to the Trustee's right to request additional extensions, if necessary.

16. It is in the best interest of all creditors of the Debtor's estate, to extend the time for the Trustee to assume or reject the Agreements to April 28, 2006.

NOTICE

17. Notice of this Motion has been given to: (a) all lessors and parties to the Agreements; (b) the Office of the United States Trustee; (c) the Debtor's 20 largest unsecured creditors; and (d) other parties in interest who have requested service. In light of the nature of the relief requested herein, the Trustee submits that no further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order (i) extending the time to assume or reject the Agreements through April 28, 2006; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: February 21, 2006

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Miriam R. Stein
One of his Attorneys

Barry A. Chatz
Miriam R. Stein
ARNSTEIN & LEHR LLP
120 S. Riverside Plaza, Suite 1200
Chicago, IL 60606
Phone: (312) 876-7100 / Fax: (312) 876-0288

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Site/ Facility	**Date of Agree-ment**	**Party(ies) To Agree-ment(s)**	**Extension Date**
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloom-ington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/Comm onwealth Edison (Power Pur-chase Agree-ment)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Regional Solid Waste Agency	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Common-wealth Edi-son (Power Purchase Agreement)	February 28, 2006
Kewanee		National Closure Cor-poration	February 28, 2006
Lansing	04/24/1995	John Sexton Contractors Sexton Com-panies Com-monwealth Edison (Power Purchase Agreement) National Closure Corporation	February 28, 2006
Litchfield	12/30/1996	Liberty Waste Services of Ohio Allied Waste Indus-tries	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Lyons/ McCook	12/27/1995	American Grading Company Common-wealth Edison (Power Pur-chase Agree-ment) Run Energy (O&M Agreement)	February 28, 2006
Mobile, AL		Texas Energy Transfer/ Mobile Gas (Gas Sales Agreement)	February 28, 2006
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Paxton	12/21/1995	Stryker International Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006
Pontiac	12/21/1995	Solar Turbines (O&M Agreement) Common-wealth Edison Power Purchase Agreement) Nicor Gas	February 28, 2006
Sangamon (Spring-field)	05/26/1995	ESG Watts, Inc. Common-wealth Edi-son/ CILCO (Power Pur-chase Agreement) Allied Waste Industries	February 28, 2006
Shelton	04/10/1994	Connecticut Resources Recovery United Illuminating Co.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Taylor Ridge	05/26/1995	ESG Watts Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts Inc.	February 28, 2006
Wheat-land	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agree-ments (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Fa-cilities (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Pontiac Business Trust	February 28, 2006
O&M Agree-ments (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		AECC Pontiac LLC	February 28, 2006
O&M Agree-ments (All Sites)		AECC Pontiac LLC	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		Red Gas, LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		Red Gas, LLC	February 28, 2006
O&M Agreemen ts (All Sites)		Red Gas, LLC	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006
Gas Sales Agree-ment (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006
O&M Agree-ments (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agree-ment (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agree-ments (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Multi-site Environm ental Per-mitting/ Monitor-ing		Trinity Consultants	February 28, 2006
Waste Conden-sate Dis-posal		RS Used Oil	February 28, 2006
Environ-mental Monitor-ing Soft-ware		Enviance, Inc.	February 28, 2006

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
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AGC Document No. 415 Standard Form of Design Build Agreement (Beecher)	08/09/2000	Network Electric	February 28, 2006
Construction Loan Agreement ($513,592.06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
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Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
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Letter Agree-ment (Beecher)	04/16/200	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
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Plant Upgrad-ing Loan Agree-ment (Beecher)	08/11/2000	Network Electric	February 28, 2006
Phone/ Internet Service		Loop Telecom-munications	February 28, 2006
Headqua-ters		RN Realty (Office Rent)	February 28, 2006

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER FURTHER EXTENDING TIME FOR TRUSTEE TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Fifth Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Further Extending the Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. With respect to certain landfills identified on Exhibit A which are owned by American Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively, along with its respective subsidiaries and affiliates, "Allied"):

(a) In regards to that portion of the Decem ber 21, 1995 contract involving the Wheatland,

Clarion and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), the time by which the Trustee can move to assume or reject the Disputed Contract Site portion of the contract is extended to April 28, 2006.

(b) In regards to the Bloomington, Litchfield, and Sangamon (a/k/a Springfield) landfill sites, and only to the extent RTC possesses any contract rights to or at the Bloomington , Sangamon and Litchfield landfill sites, the time for the Trustee to move to assume or reject such contracts is extended to April 28, 2006.

2. The time for the Trustee to assume or reject all other executory contracts and/or unexpired leases of nonresidential real property listed on the attached Exhibit A is hereby extended to April 28, 2006.

3. Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such contracts may have that such contracts have expired

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This Order specifically includes the agreement between the Debtor and Sexton relating to the Bloomington site.

This Order specifically includes the agreement between the Debtor and ESG Watts relating to the Springfield/Sangamon site.

This Order specifically includes the agreement between the Debtor and Liberty Waste Services relating to the Litchfield site.

and/or been terminated prior to the date of this Order.

4. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property, including the Agreements.

Dated: _____ ENTERED:

_____

United States Bankruptcy Judge

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Site/ Facility	**Date of Agree-ment**	**Party(ies) To Agree-ment(s)**	**Extension Date**
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloom-ington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/Comm onwealth Edison (Power Pur-chase Agree-ment)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Regional Solid Waste Agency	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Common-wealth Edi-son (Power Purchase Agreement)	February 28, 2006
Kewanee		National Closure Cor-poration	February 28, 2006
Lansing	04/24/1995	John Sexton Contractors Sexton Com-panies Com-monwealth Edison (Power Purchase Agreement) National Closure Corporation	February 28, 2006
Litchfield	12/30/1996	Liberty Waste Services of Ohio Allied Waste Indus-tries	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Lyons/ McCook	12/27/1995	American Grading Company Common-wealth Edison (Power Pur-chase Agree-ment) Run Energy (O&M Agreement)	February 28, 2006
Mobile, AL		Texas Energy Transfer/ Mobile Gas (Gas Sales Agreement)	February 28, 2006
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Paxton	12/21/1995	Stryker International Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006
Pontiac	12/21/1995	Solar Turbines (O&M Agreement) Common-wealth Edison Power Purchase Agreement) Nicor Gas	February 28, 2006
Sangamon (Spring-field)	05/26/1995	ESG Watts, Inc. Common-wealth Edi-son/ CILCO (Power Pur-chase Agreement) Allied Waste Industries	February 28, 2006
Shelton	04/10/1994	Connecticut Resources Recovery United Illuminating Co.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Taylor Ridge	05/26/1995	ESG Watts Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts Inc.	February 28, 2006
Wheat-land	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agree-ments (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Fa-cilities (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Pontiac Business Trust	February 28, 2006
O&M Agree-ments (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		AECC Pontiac LLC	February 28, 2006
O&M Agree-ments (All Sites)		AECC Pontiac LLC	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		Red Gas, LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		Red Gas, LLC	February 28, 2006
O&M Agreemen ts (All Sites)		Red Gas, LLC	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006
Gas Sales Agree-ment (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006
O&M Agree-ments (All Sites)		Archimedes Gas & Elec-tric, Inc.	February 28, 2006

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
Gas Rights and Collection Facilities Lease (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Multi-site Environmental Permitting/ Monitoring		Trinity Consultants	February 28, 2006
Waste Condensate Disposal		RS Used Oil	February 28, 2006
Environmental Monitoring Software		Enviance, Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Credit Agree-ment be-tween RTC and Aquila En-ergy Capi-tal	04/10/2002	Aquila Energy Capi-tal Corpora-tion	February 28, 2006
AGC Document No. 415 Standard Form of Design Build Agree-ment (Beecher)	08/09/2000	Network Electric	February 28, 2006
Constructi on Loan Agree-ment ($513,592. 06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
Constructi on Loan Agree-ment ($2,721,50 7.94)	12/08/2000	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Equip-ment Lease Agree-ment (Beecher)	12/08/2000	Network Electric	February 28, 2006
Perform-ance Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Confiden-tiality Agree-ment (Beecher)	04/11/2000	Network Electric	February 28, 2006
Letter Agree-ment (Beecher)	04/16/200	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Participa-tion Agree-ment (Beecher)	06/2000	Network Electric	February 28, 2006
Plant Upgrad-ing Loan Agree-ment (Beecher)	08/11/2000	Network Electric	February 28, 2006
Phone/ Internet Service		Loop Telecom-munications	February 28, 2006
Headqua-ters		RN Realty (Office Rent)	February 28, 2006

APPENDIX N

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER FURTHER EXTENDING TIME FOR TRUSTEE TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Fifth Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Further Extending the Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. With respect to certain landfills identified on Exhibit A which are owned byAmerican Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively, along with its respective subsidiaries and affiliates, "Allied"):

(a) In regards to that portion of the Decem-

ber 21, 1995 contract involving the Wheatland, Clarion and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), the time by which the Trustee can move to assume or reject the Disputed Contract Site portion of the contract is extended to April 28, 2006.

(b) In regards to the Bloomington, Litchfield, and Sangamon (a/k/a Springfield) landfill sites, and only to the extent RTC possesses any contract rights to or at the Bloomington[1], Sangamon[2] and Litchfield[3] landfill sites, the time for the Trustee to move to assume or reject such contracts is extended to April 28, 2006.

2. The time for the Trustee to assume or reject all other executory contracts and/or unexpired leases of nonresidential real property listed on the attached Exhibit A is hereby extended to April 28, 2006.

3. Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such

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[1] This Order specifically includes the agreement between the Debtor and Sexton relating to the Bloomington site.

[2] This Order specifically includes the agreement between the Debtor and ESG Watts relating to the Springfield/Sangamon site.

[3] This Order specifically includes the agreement between the Debtor and Liberty Waste Services relating to the Litchfield site.

contracts may have that such contracts have expired and/or been terminated prior to the date of this Order.

4. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property, including the Agreements.

Dated: MAR 16, 2006

Entered:

/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
United States Bankruptcy Judge

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloom-ington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/Comm onwealth Edison (Power Pur-chase Agree-ment)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Columbus	08/15/1995	City of Co-lumbus, GA	February 14, 2006
Corpus Cristi (Elliott)	11/26/1996	City of Corpus Christi Texas Energy Trans-fer (Gas Sales Agreement)	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Regional Solid Waste Agency	February 28, 2006
Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Common-wealth Edi-son (Power Purchase Agreement)	February 28, 2006
Kewanee		National Closure Cor-poration	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Paxton	12/21/1995	Stryker International Inc.	February 28, 2006
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006
Pontiac	12/21/1995	Solar Turbines (O&M Agreement) Common-wealth Edison Power Purchase Agreement) Nicor Gas	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Sangamon (Spring-field)	05/26/1995	ESG Watts, Inc. Common-wealth Edi-son/ CILCO (Power Pur-chase Agreement) Allied Waste Industries	February 28, 2006
Shelton	04/10/1994	Connecticut Resources Recovery United Illuminating Co.	February 28, 2006
Taylor Ridge	05/26/1995	ESG Watts Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts Inc.	February 28, 2006
Wheat-land	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agree-ments (All Sites)		Green Gas Delaware Statutory Trust	February 28, 2006
Gas Rights and Col-lection Fa-cilities (All Sites)		Pontiac Business Trust	February 28, 2006
Gas Sales Agree-ment (All Sites)		Pontiac Business Trust	February 28, 2006
O&M Agree-ments (All Sites)		Pontiac Business Trust	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Gas Rights and Col-lection Facilities Lease (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		AECC Pontiac LLC	February 28, 2006
O&M Agree-ments (All Sites)		AECC Pontiac LLC	February 28, 2006
Gas Rights and Col-lection Facilities Lease (All Sites)		Red Gas, LLC	February 28, 2006
Gas Sales Agree-ment (All Sites)		Red Gas, LLC	February 28, 2006
O&M Agree-ments (All Sites)		Red Gas, LLC	February 28, 2006

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
Gas Rights and Collection Facilities Lease (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)		Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Rights and Collection Facilities Lease (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)		Voltaire Gas & Electric, Inc.	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Multi-site Environm ental Per-mitting/ Monitor-ing		Trinity Consultants	February 28, 2006
Waste Conden-sate Dis-posal		RS Used Oil	February 28, 2006
Environ-mental Monitor-ing Soft-ware		Enviance, Inc.	February 28, 2006
Credit Agree-ment be-tween RTC and Aquila En-ergy Capi-tal	04/10/2002	Aquila Energy Capi-tal Corpora-tion	February 28, 2006
AGC Document No. 415 Standard Form of Design Build Agree-ment (Beecher)	08/09/2000	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Constructi on Loan Agree-ment ($513,592. 06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
Constructi on Loan Agree-ment ($2,721,50 7.94)	12/08/2000	Network Electric	February 28, 2006
Equip-ment Lease Agree-ment (Beecher)	12/08/2000	Network Electric	February 28, 2006
Performa nce Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006

Site/ Facility	Date of Agree-ment	Party(ies) To Agree-ment(s)	Extension Date
Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Confiden-tiality Agree-ment (Beecher)	04/11/2000	Network Electric	February 28, 2006
Letter Agree-ment (Beecher)	04/16/200	Network Electric	February 28, 2006
Participa-tion Agree-ment (Beecher)	06/2000	Network Electric	February 28, 2006
Plant Upgrad-ing Loan Agree-ment (Beecher)	08/11/2000	Network Electric	February 28, 2006
Phone/ Internet Service		Loop Telecom-munications	February 28, 2006
Headqua-ters		RN Realty (Office Rent)	February 28, 2006

APPENDIX O

IN THE UNITED STATES BANKRUPTY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER APPROVING SETTLEMENT BETWEEN THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION AND THE GREENBLATT ENTITIES AND GRANTING FURTHER RELIEF

This matter coming before the Court on the motion filed by Jay A. Steinberg, not individually, but solely as the Chapter 7 Trustee (the "Chapter 7 Trustee") for the Chapter 7 estate of Resource Technology Corporation (the "Estate") for entry of an order to (i) approve a settlement agreement, a copy of which is attached hereto and incorporated herein as Exhibit "A", (Settlement Agreement") by and between the Estate and the Greenblatt Entities (defined below); (ii) authorize the conveyance, designation and abandonment of certain estate assets to Chiplease, Inc. or its designee ("Chiplease") and Scattered Corporation or its designee ("Scattered") (Chiplease and Scattered, as applicable, (collectively "Purchaser)) pursuant to the terms of the Agreements (defined below); (iii) approve a designation rights agreement in favor of Purchaser, a copy of which is attached as Exhibit "A" to the Settlement Agreement ("Desig-

nation Rights Agreement") (the Settlement Agreement and Designation Rights Agreement are jointly referred to as the "Agreements"); (iv) authorize the disbursement of $250,000 to NEC Electric Corporation ("NEC"); and (v) approve shortened notice of this Motion (the "Settlement Motion"); the Court having afforded the Chapter 7 Trustee and all other parties in interest an opportunity to be heard, having considered the testimony provided at the hearing on these matters, and having considered the Settlement Motion and the entire record in this proceeding to date; the Court being otherwise fully advised in the premises, and finding notice of the Settlement Motion to be sufficient under the circumstances; the Court makes the following Findings of Facts, Conclusions of Law and other determinations:

Findings of Fact and Other Determinations

A. On November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code (11 U.S.C. Section 101 et.seq.) was filed against Resource Technology Corporation ("RTC" or the "Debtor"). An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11. Gregg E. Szilagyi was appointed as the Chapter 11 Trustee (the "Chapter 11 Trustee").

B. The case was converted back to a Chapter 7 proceeding on September21, 2005. The Chapter 7 Trustee was appointed as interim trustee in September 2005 and became the permanent trustee in November 2005.

C. The Debtor is in the business of capturing and converting methane landfill gas into electric energy, which the Debtor then sold to utilities like Com-

monwealth Edison. The Debtor operates its business at a number of landfill sites.

D. Leon Greenblatt, Chiplease, Inc. and Banco Panamericano, Inc. (collectively, the "Banco Secured Lenders") assert pre-petition and post-petition secured claims against the Estate based upon various pre-petition loan documents and post-petition debtor-in-possession loans. Based upon their loans, the Banco Secured Lenders assert a lien on certain gas rights agreements and other assets of the Estate as collateral for their loans.

E. Network ElectrIc Corporation ("NEC") asserts a secured claim against the Estate In an amount in excess of $43 Million relating to a borrowing facility approved by this Court on August 1, 2000. NEC asserts a first priority secured claim on certain property and assets relating to the Estate's Congress, Beecher and Pontiac landfill sites.

F. NEC also loaned the Chapter 7 Estate the sum of $250,000 to pay for the Chapter 7 administration of the estate (the "Chapter 7 Loan"). The first recoveries by the Estate are to be paid to NEC in repayment of the Chapter 7 Loan.

G. On January 17, 2006, the Banco Secured Lenders filed an adversary proceeding against NEC entitled "Objection to Claim and Request for Determination as to the Validity and Extent of Lien of NEC." In the adversary proceeding, the Banco Secured Lenders objected to the secured administrative claim filed by NEC and request that NEC's claim be disallowed in its entirety. The Banco Secured Lenders do not contest the payment of $250,000 to NEC as repayment of the Chapter 7 Loan.

H. Various adversary complaints were filed by the Estate against the Banco Secured Lenders and other defendants (the "Trustee's Litigation") as follows:

(i) On October 22, 2004, the Chapter 11 Trustee filed his Verified Complaint for Turnover of Property of the Estate, for Damages including Punitive Damages for Conversion of Property of the Estate, for Imposition of a Constructive Trust, and for Injunctive and Other Relief against the Banco Secured Lenders, as Adv. Pro. No. 04-03867 (the "October 2004 Complaint"). The Chapter 11 Trustee dismissed the October 2004 Complaint on February 17, 2005.

(ii) On November 16, 2004, the Chapter 11 Trustee filed his Verified Adversary Complaint for Injunctive and Declaratory Relief against the Banco Secured Lenders, Delaware Gas and Electric Inc., Scattered Corporation and Green Gas Delaware Statutory Trust incorrectly identified as Green Gas Delaware Business Trust as Adv. Pro. No. 04-04068 (the "November 2004 Complaint"). On December 30, 2004, the Court granted the Chapter 11 Trustee's Motion for Preliminary Injunctive Relief enjoining the Banco Secured Parties from taking certain actions (the "December 2004 Injunctive Relief").

(iii) On January 10, 2005, the Chapter 11 Trustee filed his Complaint for UnauthorIzed Postpetition Transfers against Loop Properties and Loop Properties, Inc. as Adv. Pro. No. 05-00025 (the "January 2006 Complaint").

(iv) On October 27, 2005, the Estate filed a Complaint for Breach of Fiduciary Duty, Equitable Subordination, Violation of RICO, Injunctive

Relief, Turnover of Property and Other Relief against the Banco Secured Lenders, Scattered Corporation and Green Gas Delaware Business Trust (the "October 2005 Complaint") as Adv. Pro. No. 05-02521.

(v) On November 2, 2005, the Court entered an order consolidating the November 2004 Complaint and the October 2005 Complaint. On November 2, 2005, the Court entered an order granting in part the Estate's Motion for Preliminary Injunction (the "November 2005 Injunctive Relief").

(vi)On January 23, 2006, the Estate filed an Adversary Complaint for Injunctive and Declaratory Relief against the Banco Secured Parties as Adv. Pro. No. 06-00436 (the "January 2006 Complaint").

I. On December 28, 2005, this Court entered an Order approving the Estate's Motion to Approve Settlement of 506(c) Claim with the Banco Secured Lenders pursuant to Section 363 of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure (Rule 101 et. seq., the "Bankruptcy Rules"). The Court required that Arnstein & Lehr LLP, as escrowee, hold $1.5 Million in settlement funds in escrow, pending further Order of the Court (the "506(c) Funds"). The Banco Secured Lenders filed a Motion to Reconsider the Court's approval of the 506(c) settlement, and objected to the Estate's motion for distribution of the 506(c) Funds. This Motion is still pending as of the date of this Order.

J. On January 12, 2006, this Court approved sale procedures relating to the Estate's sale of certain assets, which included landfill gas-fired Solar Tur-

bine combustion generators and ancillary equipment including (1) the three Solar Taurus Model Units located at the Congress landfill; (2) the one Taurus Model Unit located at the Beecher landfill; and (3) the one Solar Titan Model Unit located at the Pontiac landfill, together with all books and records pertaining to said equipment, the maintenance and operation of said equipment, spare parts and items related to said equipment (the "DTE Sale Assets") to DTE Biomass Energy, Inc. ("DTE") for $6,000,000, or such higher offer (the "Sale").

K. On February 6, 2006, the Court conducted a hearing on the Sale. The Court authorized the Sale free and clear of all liens, claims and encumbrances, with all valid liens to attach to proceeds In the same amount, extent and priority (the "Sale Order"). The Court authorized the distribution of funds to the Chapter 7 Trustee in payment of his statutory compensation. The Court ordered that the remaining funds be held in escrow pending further Order of the Court determining the extent and priority of liens between NEC and the Banco Secured Lenders as to the DTE Sale Assets.

L. The Banco Secured Lenders filed an appeal of the Sale Order to the United States District Court (the "Sale Appeal"). On February 17, 2006, the United States District Court stayed the Sale pending the appeal.

M. On March 2, 2006, the United States District Court affirmed the Sale Order. On the same date, the Estate closed on the Sale to DTE and conveyed the DIE Sale Assets to DTE free and clear of all liens, claims and encumbrances. The Chapter 7 Trustee received the statutory compensation authorized by the Court at the closing of the Sale to DTE.

N. The Chapter 7 Trustee, on the one hand, and the Banco Secured Lenders and Scattered Corporation (collectively, the "Greenblatt Entities"), on the other hand, have decided to resolve all issues between the Estate and the Greenblatt Entities, and toward that end seek Court approval of the Settlement Agreement, approval of the Designation Rights Agreement and approval of and authorization of the conveyance, designation and abandonment of certain Estate assets to Purchaser as set forth in the Agreements, approval and authorization of releases, attached to the Settlement Agreement as Exhibits D and E (the "Releases") and the dismissal of various causes of action and the granting of other relief, pursuant to Sections 105, 363, 385 and 554 of the Bankruptcy Code and Rule 9019 of the Bankruptcy Rules.

O. The terms of the Agreements are supported by sound business reasons and are consistent with fundamental policies of the Bankruptcy Code. Approval of the Agreements will serve to benefit the Estate. This Court has discretion to authorize and approve the Agreements and the other relief granted herein.

P. The settlement as set forth in the Settlement Agreement, sale of assets as set forth In the Settlement Agreement and the transfer and conveyance of certain Designation Rights as defined In the Designation Rights Agreement ("Designation Rights") to Purchaser and the Releases are each a reasonable and valid exercise of the Estate's business judgment and is otherwise appropriate under Sections 363 and 365 of the Bankruptcy Code.

Q. The Agreements were negotiated, proposed and entered into by the Estate and the Greenblatt

Entities, respectively at arms length and in good faith and without collusion. The Purchaser, as defined herein, is a good faith purchaser for value within the meaning of Section 363(m) of the Bankruptcy Code and entitled to all of the protections afforded by said provision

R. The consideration provided pursuant to the Agreements is fair and reasonable.

S. The Estate makes no representations or warranties with respect to the Designation Rights (Paragraph 14) causes of action (Paragraph 20) and equipment, inventory, supplies, work in progress and general intangibles (Paragraph 13). Specifically, the Estate makes no representations or warranties whether (i) any of the Contracts, as defined herein, which may be designated, are executory in nature; (ii) any of the Contracts are unexpired or expired; (iii) whether the Contracts are assumable; (iv) whether the Estate owns or has any interest in any of the Contracts or other assets conveyed or that may be designated under the Agreements and pursuant to this Order.

T. All objections to the Settlement Motion have been overruled or withdrawn.

U. This Court shall retain jurisdiction to enforce this Order.

Conclusions of Law and Other Determinations

1. This Court has core jurisdiction to enter a final Order with respect to the Settlement Motion and all of the relief requested thereby pursuant to 28 U.S.C. §§ 157(b)(A), (M), (N) and (0). This Court has exclusive jurisdiction over the Debtor's property and property of the Estate, wherever located, pursuant to 28 U.S.C. § 1334(d).

2. Due and proper notice of the hearing on the Settlement Motion has been given to all parties In interest as required by Sections 105(a), 363(b), 365(a) and 554 of the Bankruptcy Code and Rules 2002(a)(2), 2002(c)(1), 2002(d), 6004, 6006 and 6007 of the Bankruptcy Rules.

3. This Court has statutory authority to grant the relief in the Settlement Motion pursuant to Sections 105(a), 363, 365 and 554 of the Bankruptcy Code.

4. Good business reasons justify granting the relief requested in the Settlement Motion, Therefore, Chapter 7 Trustee shall be and hereby is authorized to enter into the Agreements on behalf of the Estate and to take such actions necessary to effectuate the Agreements as being in the best interest of the Estate and Its creditors.

5. Permits issued to RTC for the operation of its business ("Permits"), which the Chapter 7 Trustee on behalf of the Estate seeks to abandon, are burdensome to the Estate, and are of inconsequential value and benefit to the Estate. Further, the abandonment of the Permits is in the best interest of the estate.

6. This Court will retain jurisdiction over the subject matters of this Order, the Agreements and the Settlement Motion, as well as the parties that have appeared with respect to the Settlement Motion, to enforce, interpret and enter supplemental orders with respect to the subject matter of this Order and the Settlement Motion.

Decretal Provisions

Based on the foregoing Findings of Fact, Conclusions of Law and Other Determinations,

IT IS ORDERED, ADJUDGED AND DECREED as follows:

7. To the extent set forth in this Order, the relief requested in the Settlement Motion is herewith granted.

8. The terms and provisions of the Settlement Agreement are approved in their entirety.

9. The terms and provisions of the Designation Rights Agreement are approved in their entirety.

10. In the event of any inconsistency between the Agreements and this Order, this Order shall be controlling unless this Order specifically states that one of the Agreements Is controlling.

11 The Chapter 7 Trustee is herewith authorized to execute and deliver all documents on behalf of the Estate, as may be reasonably necessary to consummate and effectuate the Agreements in a manner consistent with and not in violation of the terms of this Order.

12. The Chapter 7 Trustee on behalf of the Estate and the Greenblatt Entities are herewith authorized and directed to take all actions that may reasonably be required for the purpose of consummating, and implementing the Settlement.

13. Pursuant to Section 363 of the Bankruptcy Code, the Estate is authorized to sell, transfer and convey to the Purchaser the assets (including causes of action) to be conveyed as set forth in Paragraphs 4, 5 and 8 of the Settlement Agreement. Such assets are

sold, transferred and conveyed free and clear of all liens, claims and encumbrances, with the exception of Permitted Liens. Permitted Liens are all liens that are asserted by the Greenblatt Entities. Any potential Defendant that has a counterclaim, to any cause of action herein conveyed, shall maintain the right to assert that counterclaim, as a set-off up to the amount of the claim.

14. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, the Estate is authorized to transfer and convey all of its right, title and interest, if any, in all contracts, executory or otherwise, including any alleged executory contracts listed on Exhibit "C" to the Settlement Agreement, ("Contracts"), to the Purchaser consistent with the terms of the Designation Rights Agreement. The conveyance of Designation Rights shall be effective on the closing date of the Settlement Agreement (the "Effective Date"). Upon the Effective Date, Purchaser shall have the sole, exclusive and continuing right to designate (on one or more occasions), to the same extent and validity as the Estate had at the Effective Date, (i) which Contracts shall be assumed and assigned; and (ii) which Contracts shall be rejected pursuant to the terms of the Designation Rights Agreement. The Purchaser shall not have the right to designate any Contract that has previously been terminated by a final non-appealable Court Order or if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant the Fed. R. Bankr. P. 9011 or allegations of bad faith, but the Purchaser shall have the right to petition the Court to compel the Trustee to comply with the Purchaser's direction to designate. The conveyance of the Designation Rights shall be free and clear of all liens, claims and encumbrances,

with the exception of Cure Costs, as such term is defined in the Designation Rights Agreement and Permitted Liens. In accordance with the Designation Rights Agreement, the Purchaser shall remain obligated to cure any defaults under any Contract affected thereunder, including without limitation, Cure Costs, and provide adequate assurance of future performance, pursuant to the terms of the Designation Rights Agreement. The Estate shall not be liable for Cure Costs or for adequate assurance of future performance costs or any obligations or damage claims under the Contracts, or for any other claims which may arise as a result of the entry into or operation of the Designation Rights Agreement. Purchaser shall pay all costs and expenses incurred In the preparation, presentation and trial, if necessary, related to all actions required of the Estate pursuant to the Designation Rights Agreement.

15. The provisions of Paragraph S of this Order, contained in the Findings of Fact and Other Determinations, are hereby Ordered and approved.

16. Each Purchaser is a good faith purchaser pursuant to the terms of Section 363(m) of the Bankruptcy Code. The Purchaser negotiated the terms of the sale of assets at arms length and in good faith. The Purchaser did not seek or take unfair advantage over any other prospective bidder. Further, neither the Chapter 7 Trustee, nor his employees, attorneys, agents or representatives have colluded with either Purchaser or their respective officers, employees, attorneys, agents or representatives, or in any manner whatsoever violated the provisions of Section 363(n) of the Bankruptcy Code.

17. The Greenblatt Entities reserve the right to assert that any extension or renewal option in a

Contract which purports to be "personal" only to the Estate or to be exercisable only by the Estate is an unenforceable restriction on assignment within in the meaning of Section 365(f) and (I) of the Bankruptcy Code and, in fact, may be freely exercised by Purchaser to its full extent, without prejudice to any affected party asserting a contrary position.

18. The Purchaser shall have no successor liability or other liability for any of the Estate's employee obligations.

19. Pursuant to Section 554 of the Bankruptcy Code, the Chapter 7 Trustee's abandonment of the Permits is hereby approved, and the Permits are deemed abandoned as of the Effective Date. By agreement, the Estate, the Greenblatt Entities and the People of the State of Illinois will not assert or pursue any causes of action that remain in the pending adversary proceeding known as *People of the State of Illinois and Stryker International, Inc. v. Resource Technology Corporation*, Adversary Proceeding No. 00 A 1143, or with relation to any matters relating to the Stryker International, Inc. bankruptcy estate In addition, the State of IllInois will not file or assert any environmental claims against the Estate.

20. Notwithstanding anything to the contrary in the Agreement or in this Order, the Estate and the Greenblatt Entities, including Chiplease, as the purchaser of the Estate's assets located in Shelton, Connecticut, and any designee or assignee of the Greenblatt Entities, will not assert or pursue any causes of action against Connecticut Resources Recovery Authority ("CRRA") or relating to the Shelton, Connecticut landfill site, including, without limitation, any causes of action asserted in the adversary

proceeding pending in this Court known as Resource Technology Corporation v. Connecticut Resources Recovery Authority, No. 00 A 0150 (the "CRRA Adversary") and any request for reconsideration, appeal or review from the judgment entered in the U.S. District Court case known as *Resource Technology Corporation v. Connecticut Resources Recovery Authority*, No. 05 C 4535 (the "CRRA Appeal"). In addition, no claim, cause of action or right of review or appeal against CRRA or relating to the Shelton, Connecticut landfill site and no contract with CRRA or relating to the Shelton, Connecticut landfill site will be included in any transfer or assignment authorized under this Order or in the Agreement. Also, the Shelton, Connecticut site and all contracts with CRRA or relating to the Shelton, Connecticut site will be excluded from Schedule A and Exhibit C to the Settlement Agreement and will be excluded from the Designation Rights Agreement and will be excluded from the contracts as to which the Estate seeks an extension of time to assume or reject. CRRA withdraws its Chapter 7 administrative claim against the Estate and will not file or assert any other Chapter 7 administrative claim against the Estate. However, CRRA preserves its Chapter 11 administrative claim and its pre-bankruptcy claims against the Estate. Notwithstanding the foregoing, the Greenblatt Entities do not waive any lien rights held by them or the right to enforce the same.

21. Pursuant to Section 363 of the Bankruptcy Code, the Estate's conveyance Estate's right, title and interest, if any, in and to causes of action with the exception of Excluded Causes of Action, is approved. Excluded Causes of Action include, specifically, the Estate's rights, if any, in (i) the Estate's causes of action against NEC, if any; the Estate's causes of

action in adversary No. 00 A 1143, as described in Paragraph 19 above, or with relation to any matters relating to the Stryker International, Inc. bankruptcy estate; and the Estate's causes of action, if any, against CRRA (as defined in paragraph 20) or relating to the Shelton, Connecticut landfill, including without limitation, any claim asserted in the CRRA Adversary or any request for reconsideration, appeal or review of the judgment entered in the CRRA Appeal; (ii) preference or fraudulent transfer causes of action arising pursuant to Sections 502(d), 544, 545, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code, or arising pursuant to state law fraudulent transfers; (iii) and (iv) any causes of action against the Chapter 11 or Chapter 7 Trustees or their professionals. The Estate retains and does not convey to Chiplease or any other party the Excluded Causes of Action.

22. The Chapter 7 Trustee on behalf of the Estate is authorized to execute the Releases. The Releases shall be effective only upon the Closing Date, as such term Is defined in Paragraph 12 of the Settlement Agreement.

23. As more fully set forth in Paragraph 11 of the Settlement Agreement: (i) the Purchaser shall deposit the sum of $500,000.00 to be held in escrow by its counsel, Dykema Gossett PLLC, for the payment of all unpaid Chapter 7 operating expenses above $150,000.00 and any expenses incurred while the Estate continues to operate the Debtor's business; (ii) Chiplease and, to the extent necessary, any of the Greenblatt Entities, waive any interest in the 506(c) Funds and, by the entry of this Order, consent to the payment of the 506(c) Funds by Arnstein & Lehr LLP as escrowee to Jay A. Steinberg, not individually but

solely as Chapter 7 Trustee of the Estate of Resource Technology Corporation; (iii) Chiplease shall pay the sum of $275,000.00 to Jay A. Steinberg, not individually but solely as Chapter 7 Trustee of the Estate of Resource Technology Corporation, and the Banco Secured Lenders waive any right to a distribution from such funds; (iv) Chiplease shall pay 20% of any recovery (net of attorney's fees and costs) on any cause of action conveyed hereunder; (v) all parties receiving a release from the Estate pursuant to the Settlement Agreement shall not file a Chapter 7 claim and shall not receive a distribution on any Chapter 7 claim they may have; (vi) any party receiving a release from the Estate pursuant to the Settlement Agreement shall maintain any Chapter 11 claim that it may own, and in the case of a claim purchased from a third party, the distribution relating thereto shall be limited to the amount paid for the claim, and specifically the claim purchased from Aquila Energy Capital Corporation and other entities shall be limited to $7,000,000.00 (notwithstanding the foregoing, no claim purchased after February 1, 2006 shall be entitled to a distribution); (vii) in no event do the Banco Secured Lenders otherwise waive their claims, liens or debt, but the Banco Secured Lenders waive the right to receive any Chapter 7 distribution, and the Banco Secured Lenders agree that they will not pursue any claims or remedies against the Chapter 7 Trustee or his professionals; (viii) the Parties shall execute and exchange the releases attached as Exhibits D and E to the Settlement Agreement; and (ix) the Purchaser and the Estate shall execute the documents required and perform the acts required to finalize the settlement pursuant to the terms of the Settlement Agreement and the Designation Rights Agreement.

24. The Estate is authorized to pay the Chapter 7 Loan to NEC upon receipt of the 506(c) Funds or the $275,000 payment by Chiplease, Inc.

25. If Purchaser determines that it will remove any property from a landfill for which the gas rights agreement has not been assigned to it, Purchaser agrees to give not less than 5 days notice in writing to the landfill owner at the last known address available to Purchaser of the intended removal and further agrees to advise the landfill owner as to the removal of such property. If no agreement is reached, either party has the right to petition this Court for resolution of the dispute.

26. The lien of NEC, if any, shall attach to the proceeds of the Settlement Agreement, subject to the payment of all costs of administration of the Estate_ A subsequent hearing will be held to determine the validity, priority and amount, if any, of the NEC lien. Nothing in this order shall create for or provide to NEC lien rights other than those that previously existed.

27. This Court retains jurisdiction over:

A. the Agreements;

B. the determination of any dispute or controversies arising in connection with the Agreements; and

C. the determination of any dispute relating to the enforcement and interpretation of the terms and conditions of this Order or the Agreements.

28. This Order is intended to be final and immediately effective when docketed by the clerk of this Court, pursuant to Fed. R. Bankr. P. 7062, made applicable by Fed. R. Bankr. P. 6004, 6006 and 9014.

29. To the extent any Finding of Fact is determined to be a Conclusion of Law, and to the extent any Conclusion of Law is determined to be a Finding of Fact, then each such Finding of Fact is incorporated into this Court's Conclusions of Law, and each such Conclusion of Law is incorporated into this Court's Findings of Fact.

Dated: March 16, 2006

ENTERED FOR THE COURT

/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
United States Bankruptcy Judge

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on March 14, 2006, between the Estate of Resource Technology Corporation (the "Estate"), on the one hand, and Chiplease, Inc. ("Chiplease"), Leon Greenblatt ("Greenblatt"), Banco Panamericano, Inc. ("Banco") and Scattered Corporation ("Scattered") (Chiplease, Greenblatt, Banco and Scattered collectively referred to as the "Greenblatt Entities") on the other hand. The Estate and the Greenblatt Entities collectively referred to in this Settlement Agreement as the "Parties".

RECITALS

WHEREAS, a bankruptcy case (the "Bankruptcy Case") was commenced on November 15, 1999, when an involuntary petition was filed against Resource Technology Corporation ("RTC" or "Debtor"). On February 1, 2000, a consensual Order of Relief and Order Converting the Bankruptcy Case to a case under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §101 et. seq. (the "Bankruptcy Code") became effective;

WHEREAS, on August 26, 2003, Gregg E. Szilagyi was appointed as the Chapter 11 Trustee ("Chapter 11 Trustee");

WHEREAS, on September 21, 2005, the United States Bankruptcy Court, Northern District of Illinois, Eastern Division (the "Court") entered an order converting the ease to a case under Chapter 7 of the Bankruptcy Code. Thereafter, Jay A. Steinberg, not individually but as Chapter 7 Trustee (the "Chapter 7 Trustee") was appointed as the Chapter 7 trustee for the Estate;

WHEREAS, it is the intention of the Parties that any reference to an order shall mean an order entered by the Court ("Order");

WHEREAS, Greenblatt, Chiplease and Banco (collectively, the "Banco Secured Lenders") assert pre-petition and post-petition secured claims against the Estate based upon various pre-petition loan documents and post-petition debtor in possession loan documents. Based upon their loans, the Banco Secured Lenders assert a lien on certain gas rights agreements and other assets of the Estate as collateral for their loans;

WHEREAS, Network Electric Corporation ("NEC") asserts a secured claim against the Estate in an amount in excess of S43 Million relating to a borrowing facility approved by this Court on August 1, 2000. NEC asserts a first priority secured claim on certain property and assets relating to the Estate's Congress, Beecher and Pontiac landfill sites.;

WHEREAS, NEC loaned the Chapter 7 Estate the sum of S250,000 to pay for the Chapter 7 administrative expenses of the Estate (the "Chapter 7 Loan"). Pursuant to an order entered in the Bankruptcy Case, the first recoveries by the Estate must be paid to NEC in repayment of the Chapter 7 Loan;

WHEREAS, on January 17, 2006, the Banco Secured Lenders tiled an adversary proceeding against NEC entitled "Objection to Claim and Request for Determination as to the Validity and Extent of Lien of NEC," In the adversary proceeding, the Banco Secured *Lenders* objected to the secured administrative claim filed by NEC and request that NEC's claim be *disallowed in its entirety*. The Banco Secured Lenders do not contest the payment of

$250,000 to NEC as repayment of NEC's loan to the Chapter 7 Estate;

WHEREAS, during the course of the Bankruptcy Case, the Chapter 11 Trustee and or the Chapter 7 Trustee filed adversary complaints against one or more of the Greenblatt Entities and others as follows:

(i) On October 22, 2004, the Chapter I I Trustee tiled his Verified Complaint for Turnover of Property of the Estate, for Damages including Punitive Damages for Conversion of 'Property of the Estate, for imposition of a Constructive Trust, and for Injunctive and Other Relief against the Banco Secured Lenders as Adv. Pro. No 04-03867 (the "October 2004 Complaint"). The Chapter 11 Trustee dismissed the October 2004 Complaint on February 17, 2005;

(ii) On November 16, 2004, the Chapter 11 Trustee filed his Verified Adversary Complaint for Injunctive and Declaratory Relief against the Banco Secured Lenders, Delaware Gas and Electric Inc., Scattered Corporation and Green Gas Delaware Business Trust as Adv. Pro. No. 04-04068 (the "November 2004 Complaint");

(iii) On January 10, 2005, the Chapter 11 Trustee filed his Complaint for Unauthorized Postpetition Transfers against Loop Properties and Loop Properties, Inc. as Adv. Pro. No. 05-00025 (the "January 2005 Complaint");

(iv) On December 10, 2004, the Court granted the Chapter 11 Trustee's Motion for Preliminary Injunctive Relief enjoining the Banco Secured Parties from taking certain actions (the "December 2004 Injunctive Relief");

(v) On October 27, 2005, the Estate filed a Complaint for Breach of Fiduciary Duty, Equitable Subordination, Violation of RICO, Injunctive Relief, Turnover of Property and Other Relief against the Banco Secured Lenders, Scattered Corporation and Green Gas Delaware Business Trust as Adv. Pro. No. 05-02521(the "October 2005 Complaint");

(vi) On November 2, 2005, the Court entered an order consolidating the November 2004 Complaint and the October 2005 Complaint;

(vii) On November 2, 2005, the Court entered an order granting in part the Estate's Motion for Preliminary Injunction (the "November 2005 Injunctive Relief");

(viii) On January 23, 2006, the Estate filed an Adversary Complaint for Injunctive and Declaratory Relief against the Banco Secured Parties as Adv. Pro. No. 06-00436 (the "January 2006 Complaint")

The October 2004 Complaint, the November 2004 Complaint, the January 2005 Complaint, the December 2004 Injunctive Relief, the October 2005 Complaint, November 2005 Injunctive Relief, and the January 2006 Complaint are hereinafter collectively referred to as the "Trustee Litigation";

WHEREAS, on December 28, 2005, the Court entered an Order approving the Estate's Motion to Approve Settlement of §506(c) Claim with the Banco Secured Lenders (the §506(c) Settlement"). The Court required that Arnstein & Lehr LLP, as escrowee, hold $1.5 million in settlement funds (the §506(t) Funds") in escrow, pending further Order;

WHEREAS, the Estate moved for an Order requiring that the escrowed funds be transferred to the

Estate. The Banco Secured Lenders tiled a Motion to Reconsider the Court's approval of the 506(c) Settlement, and objected to the Estate's motion for distribution of funds. Both the Banco Secured Lenders' Motion to Reconsider and the Estate's Motion for Distribution of Funds remain on the Court's docket and have been continued from time to time;

WHEREAS, on January 12, 2006, the Court approved sale procedures relating to the Estate's sale ("Sale") of certain assets (the "DTE Sale Assets"), which included landfill gas-fired Solar Turbine combustion generators and ancillary equipment including (1) the three Solar Taurus Model Units located at the Congress landfill; (2) the one Taurus Model Unit located at the Beecher landfill; and (3) the one Solar Titan Model Unit located at the Pontiac landfill, together with all books and records pertaining to said equipment, the maintenance and operation of said equipment, spare parts and items related to said equipment to DTE Biomass Energy, Inc. ("DTE") for $6,000,000, or such higher offer;

WHEREAS, on February 6, 2006, the Court entered an Order (the "DTE Sale Order") authorizing the Sale of the Sale Assets to DTE free and clear of all liens, claims and encumbrances, with all valid liens to attach to proceeds in the same amount, extent and priority. The Court authorized the distribution of Sale proceeds to the Chapter 7 Trustee in payment of his statutory compensation. The Court ordered that the remaining funds be held in escrow pending further Order determining the extent and priority of liens between NEC and the Banco Secured Lenders as to the Sale Assets;

WHEREAS, the Banco Secured Lenders filed an appeal of the DTE Sale Order (the "Sale Appeal")

with the United States District Court (the "District Court"). On February 14, 2006, the District Court stayed the Sale pending the appeal;

WHEREAS, on March 2, 2006, the District Court affirmed the DTE. Sale Order. On the same date, the Estate closed on the Sale to DTE and conveyed the Sale Assets to DTE free and clear of all liens, claims and encumbrances. The Chapter 7 Trustee received the statutory compensation authorized by the Court at closing oldie DTE Sale;

WHEREAS, the deadline for the Estate to assume or reject executory contracts and/or unexpired leases of real property (collectively, "Executory Contracts"), if any, has been extended pursuant to Orders entered from time to time through February 28, 2006;

WHEREAS, the Estate has filed a Fifth Motion Seeking to Extend the Time to Assume or Reject Contracts until April 28, 2006 for presentment on February 28, 2006. The Estate has also tiled a Motion to Extend the Time to Assume or Reject Certain Contracts (namely, the Executory Contracts relating to the Estate's Congress, Corpus Christi and Columbus landfill sites) through April 28, 2006 for presentment on February 28, 2006. Those motions and all other matters before the Court on February 28, 2006 were entered and have been continued for hearing on March 14, 2006;

WHEREAS, the lessors to the Executory Contracts have retained their rights to assert that the Executory Contracts have been previously rejected or terminated;

WHEREAS, one of the Executory Contracts is an Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas-To-

Electric Plant dated December 2, 1997 between Congress Development Company and RTC, and later amended by the First Amendment to Amended and Restated Agreement for Construction and Operation of bas Collection Facility and Gas-to-Electric Plant" executed June 30, 1999 and further amended by a certain side-letter agreement dated July 1, 1999 (collectively, the "Congress Ageement");

WHEREAS, one of the Executory Contracts is an Agreement dated December 27, 1995 between RTC and American Disposal Services, Inc. ("ADS") relating to certain gas collection facilities and certain gas to energy facilities including the Pontiac facility ("ADS Agreement"). The ADS Agreement as it relates to Pontiac Illinois was previously assumed by the Chapter 11 Trustee;

WHEREAS, one of the Executory Contracts is an Agreement between American Grading Company ("AGC") and RTC dated December 27, 1995 (the "American Grading Agreement");

WHEREAS, the Banco Secured Lenders assert that John Connolly, as President of RTC, was authorized to and delivered to AGC a proper Notice of Extension of the American Grading Agreement extending the term of the American Grading Agreement;

WHEREAS, the Estate is seeking to abandon its right, title and interest, if any, in permits issued to RTC for the operation of its business ("Permits"), as the Estate maintains that the Permits have inconsequential value to the Estate and are burdensome to the Estate;

WHEREAS, Scattered purchased the note and security interest of Aquila Energy Capital Corporation in and to the assets relating to Estate's Pontiac facility;

WHEREAS, the Estate lacks sufficient resources to assume any Executory Contracts or to satisfy the costs of administration of the Chapter 7 Estate that are currently estimated to be approximately $250,000 to S400,000 based upon the information and analysis of the Chapter 7 Trustee and John Connolly. Further the Estate lacks sufficient resources to pursue adequately the Trustee Litigation due to the elimination or the monthly payment, of approximately 540,000.00, from the operations of the Pontiac Facility that the Estate was receiving before Aquila sold its note and security interest.

WHEREAS, the Estate and the Greenblatt Entities have engaged in Substantial good faith negotiations in an effort to rcsolve the many disputes between the Parties including without limitation, (i) the Trustee Litigation, (ii) the Banco Secured Lenders' Motion to Reconsider the approval of the 506(e) Settlement; (iii) the Banco Secured Lenders' objection to the distribution of the 506(c) Funds to the Estate; and (iv) the Banco Secured Lender's objection to the Estate's rejection of Executory Contracts;

WHEREAS, in conjunction with this Agreement, the Estate, on the one hand, and Chiplease, Scattered, and their respective designees, on the other hand, wish to enter into a Designation Rights Agreement, in the form attached hereto as Exhibit A (the "Designation Rights Agreement"); and

WHEREAS, the Estate and the Greenblatt Entities wish to settle their differences under and pursuant to the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and subject to approval of the Court, the Parties hereby agree as follows.

AGREEMENT

1. Recitals Incorporated. Into Agreement. The Recitals set forth above are incorporated herein by reference.

2. Effective Date. This Settlement Agreement shall become effective (the "Effective Date") upon the entry of a final nonappealable Order approving this Settlement Agreement including all of its exhibits, the form of which has been mutually agreed to by the Estate and the Greenblatt Entities (the "Approval Order"). The Parties specifically agree that the form of Order attached hereto as Exhibit B has been agreed to by them. The Parties further agree that following the hearing on this Settlement Agreement, the Parties reserve the right to revise the Order attached hereto as Exhibit B to conform to the proofs.

3. The Sale Appeal and NEC Claim Litigation. The Sale and the Banco Secured Lenders' right to prosecute the Sale Appeal including the asserted right to credit bid, the Banco Secured Lenders' assertion of a secured claim, the objection to NEC's secured claim including the NEC Claim Litigation. are unaffected by this Settlement Agreement. Nothing in this Settlement Agreement shall be interpreted as an impediment to the Banco Secured Lenders or a waiver of any claims or lien rights that may be

necessary to prosecute or provide standing to continue the NEC Claim Litigation, Nothing in this Settlement Agreement shall be interpreted as an impediment to NEC asserting any claim or counterclaim in that litigation that NEC would have had hut for this Settlement Agreement. The Estate will continue in its efforts to finalize the Sale.

4. The Estate's Conveyance of Assets. With regard to contracts including Executory Contracts and assets listed in this Section 4, on the Closing Date, as defined in paragraph 12 of this Agreement, the Estate shall either convey designation rights to Executory Contracts (if any), assign Executory contracts (if any) with the assignee having the right and opportunity to cure any defaults, and provide any necessary adequate assurance of future performance, or sell, transfer and convey all other assets (if any), all in conformance with the requirement of the Bankruptcy Code:

(i) the Estate shall sell, transfix and convey to Chiplease or its designee all of the Estate's right, title and interest, if any, in the Congress Agreement and any gas rights agreement or other agreements relating to the Hillside Illinois facility or arising as a result of the Congress Agreement in accordance with the terms of this Settlement Agreement;

(ii) the Estate shall sell, transfer and convey to Chiplease or its designee an of the Estate's right, title and interest, if any, in all equipment, inventory, supplies, work in process, general intangibles and causes of action ("Equipment") related to the Congress site and/or located in Hillside Illinois, except that the Estate does not convey to Chiplease or its designee any Equipment conveyed to or which the Estate has agreed to convey to DTE;

(iii) the Estate shall sell, transfer and convey to Scattered or its designee all of the Estate's right, title and interest, if any, in the ADS Agreement and any gas rights agreement or other agreements relating to the facilities that are the subject of the ADS Agreement or arising as a result of the ADS Agreement in accordance with the terms of this Settlement Agreement,

(iv) the Estate shall sell, transfer and convey to Scattered all of the Estate's right, title and interest, if any, in all Equipment related to the ADS Agreement and/or located in or related to the facilities in Pontiac Illinois, Wyandot Ohio, Clarion Pennsylvania and Wheatland Kansas;

(v) the Estate shall sell, transfer and convey Chiplease or its designee all of the Estate's right, title and interest, if any, in the American Grading Agreement and any gas rights agreement or other agreements relating to McCook facility or arising as a result of the American Grading Agreement in accordance with the terms of this Settlement Agreement;

(vi) the Estate shall sell, transfer and convey to Chiplease or its designee all of the Estate's right, title and interest, if any, in all Equipment related to the American Grading Agreement (including without limitation, five generators) and/or located in Lyons Illinois; and

(vii) the Estate shall sell, transfer and convey Chiplease or its designee all of the Estate's right, title and interest, if any, in all contracts including but in no way limited to all executory contracts, which shall include any landfill agreements and gas rights agreements to which RTC is a party, to which the Estate has sought an extension of time to assume or reject

as listed on Exhibit C, pursuant to the terms of the Designation Rights Agreement. The Estate shall sell, transfer and convey all of the Estate's right, title and interest, if any, to all of the Estate's personal property including but not limited to furniture, fixtures and all Equipment at or related to all facilities, contracts and sites not mentioned above, as listed on the attached Sehedule A, including but not limited to the contracts set forth in Exhibit C, but specifically excluding. the Estate's interest in any contracts regarding the Beecher, Illinois and Paxton, Illinois sites.

(viii) Nothing herein shall he construed to excuse either Chiplease or its designee or Scattered Corporation from the obligations, if any, to comply with the provisions relating to assumption and assignment provided under Section 365 of the Bankruptcy Code and any sale, transfer and conveyance of rights under an Executory Contract shall he conditioned on and subject to the terms and conditions contained in the Designation Rights Agreement. In the event that the Chapter It Trustee has previously assumed an Executory Contract, prior to assignment to Chiplease or its designee or Scattered or its designee, it shall be a requirement of any assignment that the Chapter 7 Trustee, at the sole cost and liability of the designating party, cure or provide adequate assurance that any default will be promptly cured and compensate or provide adequate assurance that any nondebtor party to an Executory Contract will he promptly compensated for any actual pecuniary loss to such party resulting from any default. In all events, the designating party shall provide adequate assurance of future performance by the designating party of such Executory Contract, whether or not there has been a default in such contract or lease.

The Estate makes no representations or warranties with respect to extent and validity of the Estate's right, title and interest, if any, in any of the foregoing assets, or whether such assets exist.

5. Designation Rights. On the Closing Date, the Estate shall- sell, transfer and convey to Chiplease, Scattered or their respective designees all of the Estate's rights, if any, to assume, assign and/or reject all Executory Contracts (collectively, "Designation Rights") pursuant to the terms of a Designation Rights Agreement to be entered into between the Estate and Chiplease, Scattered or their respective designees. On the Closing Date, Chiplease, Scattered or their respective designees shall have the sole, exclusive and continuing right to designate (on one or more occasions) through the Designation Period (defined. in the Designation Agreement), to the same extent and validity as the Estate had on the Closing Date, (i) which Executory Contracts shall be assumed and assigned; and (ii) which Executory Contracts shall be rejected. AS part of the Designation Rights Agreement, the Estate shall bear no liability for Cure Costs, as that term is defined in the Designation Rights Agreement, for costs, if any, related to adequate assurance of future performance, or for any obligations or damages under any contract conveyed under this Agreement or subsequent to such conveyance. Chiplease or its designee or Scattered or its designee, as the case may be, shall pay all reasonable costs and expenses incurred in the preparation, presentation and trial, if necessary, related to all actions required of the Estate pursuant to the Designation Rights Agreement.

6. Extension of Time to Assume or Reject Executory Contracts. The Estate has sought an extension

of time to assume or reject Executory Contracts beyond the current February 28, 2006. As a material term of this Agreement, the Court must enter an order extending such time to April 28, 2006, The Chapter 7 Trustee makes no representations or warranties with respect to extent and validity of the Estate's right, title and interest in any of Executory Contracts, or whether any of Executory Contracts are assumable or assignable.

7. Abandonment of Permits. The Estate shall seek Court approval for the abandonment of Permits. The Estate's abandonment of the Permits shall be deemed effective as of the Closing Date.

8. Estate's Conveyance of Certain Causes of Action. On the Closing Date, the Estate shall sell, transfer and convey to Chiplease or its designee all of the Estate's right, title and interest, if any, in all of the Estate's causes of action, except that the Estate shall not convey and the Estate shall retain its rights, if any, in (i) the Estate's causes of action against NEC, if any; (ii) the Estate's cause of action in *People of the State of Illinois and Stryker International, Inc. v. RTC*, Adversary Proceeding No. 00 A 1143 (iii) preference or fraudulent transfer causes of action arising pursuant to 11 U.S.C. §502(d), 544, 545, 546, 547, 548, 549, 550, 551 and 553, or arising pursuant to state law fraudulent transfers; (iv) causes of action relating to the disgorgement or recovery of any disbursements made to professionals during the Chapter 11 Chapter 7 cases including without limitation the Chapter 7 and or Chapter 11 Trustee's statutory compensation and the Chapter 7 and/or Chapter 11 Trustee's professional fees or other expenses paid during the pendency or the Bankruptcy Case; and (v) any causes

of action against the Chapter 11 or Chapter 7 Trustees or their professionals. The Estate retains and does not convey to Chiplease or its designee or any other party the above-referenced excluded causes of action.

9. Release. On the Closing Date, the Parties shall execute the Releases attached hereto as Exhibits D and E (the "Releases"). The terms of the Releases are specifically incorporated herein,

10. The Trustee's Litigation and Objection to Banco Secured Lenders' Claims. The Estate shall withdraw all objections to the claims tiled by the Banco Secured Lenders or any claims purchased by any of the Banco Secured Lenders or Scattered Corporation. In addition, the Estate shall seek dismissal with prejudice of each of the adversary proceedings defined as the "Trustee Litigation". In the event that the "Trustee Litigation" is not dismissed with prejudice, the Banco Secured Lenders may terminate this Agreement without liability for breach and the Parties shall return to the status quo ante.

11. Consideration. Chiplease for itself and on behalf of the other Banco Secured Lenders shall pay to the Estate the following consideration:

(i) Chiplease shall pay all unpaid Chapter 7 operating expenses above $150,000 and any expenses incurred while the Estate continues to operate the Debtor's business ("Expenses"). The Estate shall pay the first $150,000 of these expenses. On or before the Closing Date, Chiplease shall deliver to its counsel, Dykema Gossett PLLC the sum of $500,000.00 to be used to pay the Expenses ("Adequate Security"). After the Estate has paid a total of $150,000 in

Chapter 7 Expenses, Chiplease will be requested to pay all additional Chapter 7 operating expenses. The Chapter 7 Trustee shall advise Chiplease in writing of Chiplease's obligation to pay one or more. Expenses (the "Expense Request"). Chiplease shall have seven (7) days from receipt of the Expense Request to either pay the Estate sufficient finds to fully satisfy the Expense Request, or to dispute the payment of the Requested Expenses in writing ("Expense Dispute"). If Chiplease fails to make a timely Expense Dispute, the Expense Request will be deemed allowed and Chiplease will be required to pay it. If an Expense Dispute is timely made, the Estate shall have ten (10) days from the receipt of the Expense Dispute to seek to have the Expense Request allowed or disallowed by the Court (the "Expense Motion"). In the event that the Estate does not file an Expense Motion within the ten (10) day period, Chiplease shall be granted Standing for the limited purpose of seeking to have the Expense Request disallowed;

(a) The term "Chapter 7 operating expenses" shall not include the Chapter 7 Loan or any Chapter 7 Trustee's fees or expenses or any professional fees and expenses, which the Estate shall pay from the Estate's assets including but not limited to the consideration below including the 506(c) Funds;

(ii) Chiplease and to the extent necessary the other Bunco Secured Lenders waive any interest in the 506(c) Funds and consents to the payment of the 506(c) Funds by Arnstein & Lehr, as escrowee, to the Estate;

(iii) Chiplease shall pay $275.000 on the Closing Date to the Estate. The Bunco Secured Lenders waive any right to a distribution from such funds. On

the Closing Date, Chiplease's counsel shall provide :assurance that it holds the Adequate Security;

(iv) The Estate shall be entitled to 20% of any recovery (net of attorney's fees and costs) on any cause of action conveyed hereunder and brought by Chiplease or its designee and 20% of any recovery (net of attorney's fees and costs) obtained through the prosecution of the NEC Claim Litigation. Notwithstanding this subsection (v), the Estate does not convey or assign any cause of action against NEC to the Greenblatt Entities including Chiplease;

(v) The Banco Secured Lenders, as pre-petition and post-petition secured lenders, waive their right to any distribution from the Estate that may be paid from the consideration delivered pursuant to the settlement set forth herein, including any right to receive a distribution from the 506(c) Settlement. In no event shall the Banco Secured Lenders be entitled to a distribution on account of any Chapter 7 administrative claim they may hold;

(vi) The Banco Secured Lenders shall otherwise maintain any Chapter II claim and Chapter 7 non-administrative claim, as the case may be. In the case of purchased claim, the Banco Secured Lenders shall not be entitled to a distribution for any claim purchased after February 1, 2006. For distribution purposes, any distribution on account of a purchased claims shall be limited to the amount of the purchase price including the claim purchased from Aquila Energy Capital Corporation, Concert Capital Resources, LP, Concert Capital Resources A, LP, Concert Capital Resources B, LP, Concert Capital Resources C, LP, Concert Capital Resources A/B, Inc., and AECC Pontiac LLC, which shall be limited to $7,000,000, and

(vii) In no event do the Banco Secured Lenders otherwise waive their claims, liens or debt. However, the Banco Secured Lenders waive the right to receive any Chapter 7 distribution. The Banco Secured Lenders agree that they will not pursue any claims or remedies against the Chapter 7 Trustee or his professionals.

12. The Closing Date. The term "Closing Date" shall mean and the closing shall occur on the next business day after the Effective Date. On the Closing Date, the Parties shall meet and exchange the following:

(i) The Chiplease shall:

(a) Pay the Estate the sum of 5275,000;

(b) Provide the Estate with evidence of the deposit of the Adequate Security;

(c) Execute the Releases; and

(d) Execute an agreed order authorizing the disbursement of the 506(c) Funds to the Estate.

(ii) The estate shall:

(a) Execute the Releases;

(b) Execute the Designation Rights Agreement designating the Estate's rights, if any, in the Designation Rights to Chiplease or its designee:

(c) Execute a Bill of Sale; and

(d) Execute a Stipulation seeking dismissal of the Trustee Litigation with prejudice.

Notwithstanding the foregoing, the Closing Date shall not be deemed to have occurred until the foregoing documents and payments are executed, provided and/or exchanged.

13. Governing Law. This Settlement Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Illinois.

14- Representations and Warranties. The parties represent and warrant that they have the proper authority to sign for and on behalf of the respective entities, and the parties are all bound by the terms of this Settlement Agreement.

15. Amendment of Agreement, This Settlement Agreement shall not he amended except by a writing signed by all of the parties hereto.

16. Binding Effect. This Settlement Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

17. Entire Agreement. This Settlement Agreement and all of its Exhibits constitute the entire agreement of the parties hereto as to the subject matter hereof. The undersigned acknowledge that there are no communications or oral understandings contrary, different, or which in any way restrict this Settlement Agreement, and that all prior agreements or understandings within the scope of the subject matter of this Settlement Agreement are, upon the execution and delivery of this Settlement Agreement, suspended, null and void.

18. Execution in Counterparts. This Settlement Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Settlement Agreement.

Chiplease, Inc.

By: _____
Leon Greenblatt
Its Agent and Officer

Leon Greenblatt

By: _____
Leon Greenblatt
Individually

Banco Panamericano

By: _____
Leon Greenblatt
It Agent and Officer

By: _____
Leon Greenblatt
It Agent and Officer

SCHEDULE A

LIST OF LANDFILL SITES

1. Bi-State Landfill, 2248 Parks Road, Belleville, Illinois 62220;

2. Bloomington Landfill, R.R. 3 Box 145, Bloomington, Illinois;

3. Chastang Landfill, 17045 Hwy 43, Mt. Vernon, AL 36562;

4. Clarion Landfill, Meadville, Pennsylvania 16335;

5. Columbus/Pine Grove Landfill, 7160 Sacerdote Lane, Columbus, Georgia 31907;

6. Congress Landfill, 4100 West Frontage Road, Hillside, Illinois 60160;

7. Elliot Landfill, 7001 Ayers, Corpus Christi, Texas 78415;

8. NC Iowa RSWA, 3319 5th Ave. South, Ft. Dodge, Iowa 50501;

9. City of Gary Landfill, 1900 Burr Street, Gary, Indiana 46403;

10. GNOL Landfill, 5700 Hwy. 90 West, Avondale, Louisiana 70002;

11. Kewanee/National Closure Corp. Landfill, Rte. 81, Kewanee, Illinois, 61443;

12. Lansing/National Closure Corp, Landfill, 2600 W. 170th St., Lansing, IL 60438;

13. Litchfield-Hillsboro Landfill, 2782 Landfill Trail, Litchfield, Illinois 62056;

14. Lyons/McCook Landfill, 5101 S_ Lawndale Ave. (Private Road), McCook, IL 60525;

15. New Haven Landfill, 260 Middletown Avenue, New Haven, Connecticut 06510;

16. Ottawa Landfill, P.O. Box 520 Koenig Road, Ottawa, Illinois 61350;

17. Peoria Landfill, 11501 West Cottonwood Lane, Brimfield, Peoria County, Illinois;

18. Pontiac Landfill, RR 3 14206 East 2100 North Road, Pontiac, IL 61764

19. Rosencranse Landfill, Rosencranse Road, TR 4860, Wayne County, Berlin Township, Pennsylvania 18405;

20. Springfield Landfill, RR#9, Sand Hill Road, Springfield, Illinois 62707;

21. Taylor Ridge Landfill, 8400 77th Street West, Taylor Ridge, Illinois 61232;

22. Viola Landfill, Greene Township, Illinois;

23. Wheatland Landfill, PT SW/4, Section 19 Township 325 Range 24 E Columbus. Kansas 66725; and

24. Wyandot Landfill, 11164 County Road 4, Carey, Ohio 43316,

EXHIBIT A

DESIGNATION RIGHTS AGREEMENT

THIS DESIGNATION RIGHTS AGREEMENT, is made and entered into on March 14, 2006 between the Estate of Resource Technology Corporation (the "Estate" or "Seiler"), on the one hand, and Chiplease, Inc. or its designee ("Chiplease") and Scattered Corporation or its designee (Scattered") (Chiplease, and Scattered collectively referred to as the "Purchaser") on the other hand. The Estate and Purchaser individually be referred to in this Settlement Agreement as a "Party" and collectively referred to in this Settlement Ageement us the "Parties".

RECITALS

WHEREAS, the bankruptcy case known as In re Resource Technology Corporation, Case No 99 B 35434 (the "Bankruptcy Case") was commenced on November 15, 1999, when an involuntary petition was filed against Resource Technology Corporation ("RTC" or "Debtor"). On February 1, 2000, a consensual Order of Relief and Order Converting the Bankruptcy Case to a case under Chapter 11 of the Bankruptcy Code became effective;

WHEREAS, on August 26, 2003, Gregg E. Szilagyi was appointed as the Chapter 11 Trustee ("Chapter 11 Trustee");

WHEREAS, on September 21, 2005, the United States Bankruptcy Court, Northern District of Illinois, Eastern Division (the "Court") entered an order converting the case to a case under Chapter 7 of the Bankruptcy Code. Thereafter, Jay A. Steinberg, not individually but as Chapter 7 Trustee (the "Chapter 7 Trustee") was appointed as the Chapter 7 trustee for the Estate;

WHEREAS, The Seller and Purchaser contemporaneously with this Agreement entered into an Settlement Agreement of even date; and

WHEREAS, Purchaser, as a part of the settlement under the Settlement Agreement, desires to purchase and Seller desires to sell, the Designation Rights (defined below) upon the terms and subject to the conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties covenant and agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

"Affected Parties" means, with respect to a Contract, (i) the lessor under such Contract, and (ii) any sublessee under any sublease relating to such Contract.

"Agreement" means this Designation Rights Agreement.

"Approval Order" means the final and nonappealable order entered by the Court approving the Settlement Agreement and this Agreement in a form of Order attached to the Settlement Agreement as Exhibit B, which the Parties specifically agree has been agreed to by them.

"Authorized Officer" of any Person means the chief executive officer, the president, any vice president or any secretary of that Person.

Banco Secured Creditors" means collectively, Leon Greenblatt, Chiplease, Inc. and Banco Panamericano, Inc.

"Bankruptcy Case" has the meaning set forth in the recitals above.

"Bankruptcy Code" means 11 U.S.C. §101 et. seq, and applicable portions of Titles 18 and 28 of the United States Code, as amended from time to time.

"Court" has the meaning set forth in the recitals above.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as amended from time to time.

"Closing Date" shall have the same meaning as that term has in Paragraph 12 of the Settlement Agreement.

"Contracts" are those contracts and leases listed on Exhibit C to the Settlement Agreement and made a part hereof. The Seller makes no representations with regard to the Contracts including without limitation the Seller makes no representations whether (i) any of the Contracts are executory in nature; (ii) any of the Contracts are unexpired or expired; (iii) whether the Contracts are assumable; (iv) whether the Seller has any interest in any of the Contracts; or (v) the existence of any Contract.

"Cure Costs" means all actions and monetary payments necessary to cure any defaults (monetary or otherwise) in a Contract. In the event that the Purchaser and Affected Party disagree as to the Cure Costs of a Contract that the Purchaser seeks to assume, the Cure Costs shall be the amount determined by the Court or actions to be taken as

required by the Court, after notice and hearing, as necessary to cure any defaults (monetary or otherwise) in a Contract. Under no circumstances shall the Estate have any obligations whatsoever as set forth in more detail in the Approval Order, including but not limited to Paragraph 14 of the Approval Order "Designation Motion" has the meaning set forth in Section 2.1(c) below.

"Designation Period" has the meaning set forth in Section 2.1(b) below.

"Designation Rights" has the meaning set forth in Section 2.1(b) below.

"Effective Date" has the meaning set forth in Article III below.

"Greenblatt Entities" mean collectively the Banco Secured Creditors and Scattered Corporation.

"Objection Period" has the meaning set forth in Section 2.1(d) below.

"Order" means an order entered by the Court.

"Permitted Liens" means all liens that are asserted by the Greenblatt Entities.

"Person" means any natural person, corporation, general partnership limited partnership, limited liability partnership, limited liability company, trust union, association, court, agency, government, tribunal, instrumentality or other entity or authority.

"Purchase Price" has the meaning set forth in Section 2.3 below.

"Settlement Agreement" is that certain Settlement Agreement entered into *on* March 14, 2006 between the Estate, on the one hand, and the Banco Secured Creditors and Scattered Corporation, on the other hand.

"Settlement Motion" has the meaning set forth in Section 3.3 below.

ARTICLE II

THE TRANSACTION

2.1 Purchase and Sale of Designation Rights and Properties.

(a) On the terms and subject to the conditions contained in this Agreement and the Approval Order, on the Closing Date, Purchaser shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver to Purchaser, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, the Estate's right, title and interest, if any, in and to the Designation Rights for all of the Contracts free and clear of all liens of any kind whatsoever to the fullest extent permissible pursuant to the Bankruptcy Code, but subject to Cure Costs, Permitted Liens and the provisions of Article 2.1(c) below.

(b) During the Designation Period, and on the terms and subject to the conditions contained in this Agreement and the Approval Order, the Purchaser shall have the sole, exclusive and continuing right to select, identify and designate (on one or more occasions): (i) which Contracts shall be assumed and assigned in connection with an assumption and assignment, and to whom; and (ii) which Contracts shall be rejected (all of which rights are referred to herein as the "Designation Rights"). Subject to the terms and provisions of this Agreement, Purchaser shall have the right to designate as the designee with respect to any particular property either itself, or any other Person. Purchaser's Designation Rights shall expire with respect to each Contract on the later of (i) the date of the expiration of the applicable Sections

365(d)(1) and 365(d)(4) of the Bankruptcy Code extension period for the assumption or rejection of the applicable Contract including any further extension granted by order of the Court, (the "Extension Period"), or (ii) April 28, 2006 (the "Designation Period"). Seller agrees as a condition of this Agreement and related agreements to use reasonable efforts to seek an extension of the Extension Period to April 25, 2006 and upon receipt of written request by the Purchaser agrees to seek and prosecute, but in no way guaranty, one further extension as may be required to effectuate the matters that are the essence of this Agreement, Notwithstanding anything contained herein, from the date hereof until the expiration of the Designation Period, Seller shall not reject any Contract unless and until Purchaser, in accordance with this Agreement, excludes such Contract from this transaction. The Designation Rights to be acquired shall include, among other things, the exclusive power to designate to a designee (and to have Seller convey and assign to such designee) all rights, title, interests, options, contract rights, if arty, of the Seller in and to one (1) or more of the Contracts of the Seller. Notwithstanding any provision to the contrary, any costs, expenses or claims attributable to a time period after the entry of the Approval Order shall be deemed a Chapter 7 Operating Expense (the "Chapter 7 Operating Expenses") and shall be the sole obligation of Purchaser.

(c) Notwithstanding subsections (a) and (b) above, in order to effectuate either an assumption and assignment or a rejection of a Contract, the Purchaser shall draft prior to the expiration of the Designation Period within sufficient time for filing and presentation to the Court prior to the expiration of the Designation Period, a motion (the "Designation

Motion"), and such Designation Motion shall: (i) identify the Contract at issue; (ii) state whether the Purchaser intends to assume and assign or reject the Contract at issue; (iii) state the identity of Purchaser's designee; (iv) state the proposed use of the Contract by the Purchaser's designee, (v) provide documentation or other information from Purchaser's designee relating to "adequate assurance of future performance" by the designee as required by Section 365 of the Bankruptcy Code; (vi) set forth a list of the Contract and all of the documents amending, modifying, supplementing or restating the Contract (which list shall be consistent with the applicable list with respect to the applicable Contracts set forth on Exhibit C attached to the Settlement Agreement and made a part hereof); (vii) request Court approval of the assumption and assignment of a Contract or rejection of a Contract, at the Purchaser's election; (viii) request a hearing before the Court on the relief requested including without limitation a hearing to determine whether the Contract was previously rejected and, therefore, not assumable or assignable under Section 365 of the Bankruptcy Code, on Cure Costs, on the adequacy of the Purchaser and/or its designee's assurance of future performance under the Contract and satisfaction of Cure Costs; and (ix) include as an attachment a proposed Order. The Seller shall use reasonable efforts to file the Designation Motion within two (2) business days of receipt from the Purchaser for presentment to the Court within the Designation Period. The Seller shall serve a copy of the Designation Motion on the Affected Parties. The Seller shall not have any liability with respect to Cure Costs or other assurances of future performance with respect to any Contract that the Purchaser seeks to have assumed

and assigned as set forth in more detail in the Approval Order, including but not limited to Paragraph 14 of the Approval Order.

(d) The Affected Parties shall have, ten (10) days from their receipt of the Designation Motion from the Seller (the "Objection Period") to file with the Court an objection in writing to the proposed assignment of the Contract to the Purchaser's designee (and concurrently deliver a copy of the said objection to the Purchaser. Seller and such other parties as are specified in the notice to the Affected Parties.

(e) Seller shall use its reasonable efforts to have any Designation Motion and notice thereof provide that if an objection to any assumption and assignment is not timely filed prior to the expiration of the applicable Objection Period, or such objection involves a "cure issue," the objection will not pre elude the assumption and assignment of the Contract, the assumption and assignment shall be deemed effective and binding (without further Order) contingent upon the determination of any Cure Costs by the Court and the satisfaction of such Cure Costs in accordance with an Order. Notwithstanding the foregoing, the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections thereto (other than as to cure amounts), if no objection is filed within the Objection Period. The Designation Motion must clearly state that the failure to object may result in the entry of an Order allowing assumption and assignment of a Contract without any obligations on the part of the Purchaser for adequate assurance of future performance.

(f) Any Contract not identified in any timely filed Designation Motion shall be deemed rejected as of the expiration of the Designation Period; provided,

however, Seller shall be prohibited from rejecting any Contract until such time as Purchaser has designated such Contract for rejection or the period to assume and assign such Contract, as provided under sections 365(d)(1), (d)(4) has expired and has not been further extended by the Court.

(g) Any Contract to which the Purchaser requests by Designation Motion to be rejected, shall be deemed rejected upon the filing of a Designation Motion with the Court.

(h) Notwithstanding the above, the Seller shall use reasonable efforts to file and present the Designation Motion. However, the Seller shall have no obligation or liability whatsoever to present any evidence or argument in favor or against assumption or assignment of a Contract including without limitation, any evidence or argument relating to the assumability of a Contract, Cure Costs and/or adequate assurance of future performance by the Purchaser or its designee. The Purchaser shall not have the right to designate any Contract that has previously been terminated by a final non-appealable Court Order or if the Seller believes in good faith that a particular designation will result in the Seller being subject to allegations of bad faith, but the Purchaser shall have the right to petition the Court to compel the Seller to comply with the Purchaser's direction to designate.

(i) The Seller shall bear no liability for Cure Costs or for adequate assurance of future performance costs or obligations relating to any Contracts, or any other costs or expenses relating thereto.

2.2 Assumption and Assignment of Contracts. An assumption and assignment of any Contract, pur-

suant to Section 365 of the Bankruptcy Code, shall be effective only upon the entry of a final and non-appealable Order approving the assumption and assignment of a Contract after notice and hearing on a timely tiled and served Designation Motion., provided, however, if no such objection to the assumption and assignment is timely tiled prior to the expiration of the applicable Objection Period, or such objection involves a "cure issue" which, pursuant to the Designation Order, will not preclude the assumption and assignment of the Contract, however, the assumption and assignment shall be deemed effective and binding (without further Order) upon the Court's determination of the Cure Costs and the Purchaser's satisfaction of same.. Notwithstanding the foregoing, the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections thereto (other than as to cure amounts), if no objection is filed prior to the expiration of the Objection Period.

2.3 Purchase Price. The purchase price for the Designation Rights (the "Purchase Price") is included in the consideration paid or to be paid by Chiplease pursuant to Section 11 of the Settlement Agreement. Except for the Purchase Price, the Purchaser shall have no obligation to pay the Estate any other funds other than the Purchase Price in order to assume, assign or reject any Contract. Notwithstanding the foregoing, the Purchase Price shall specifically include any obligations of the Purchaser as to the Contracts, including but not limited to, Cure Costs, adequate assurance of future performance and the payment of Chapter 7 Operating Expenses.

2.4 Purchaser shall use its best efforts to identify designees to obtain assignments of the Contracts

before the expiration of the applicable Extension Period; provided, however, Purchaser shall have the right to request that Seller obtain an Order extending the Designation Period for an additional period reasonably requested by Purchaser. Should Purchaser make any such request, Seller shall use its reasonable efforts to obtain promptly such an Order. If the Court denies to extend the Designation Period, the Designation Period is terminated at the later of (i) the date of docketing of the Order denying the extension of the Extension Period; or (ii) April 28, 2006.

ARTICLE III

CONDITIONS FOR EFFECTIVE DATE, CLOSING DATE AND APPROVAL ORDER

3.1 The Effective Date of this Agreement is the date when the Approval Order is a final and non-appealable Order.

3.2 The Approval Order must be in the form attached as Exhibit B to the Settlement Motion is entered, unless the Parties mutually agree to revise the Order.

3.3 The Closing Date of this Agreement shall be the Closing Date as defined by Paragraph 12 of the Settlement Agreement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

4.1 Seller makes no other representations or warranties with respect to the Contracts including without limitation the Seller makes no representations whether (i) any of the Contracts are executory in nature; (ii) any of the Contracts are unexpired or expired; (iii) whether the Contracts are assumable;

(iv) whether the Seller has any interest in any of the Contracts; or (v) whether any Contract exists. Seller is conveying and designating the Contracts to Purchaser in a "WHERE-IS, AS-IS" condition.

4.2 Purchaser hereby represents and warrants to Seller as follows:

(a) Authorization. Purchaser has the power and authority, to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by Purchaser and the consummation by Purchaser of the transactions contemplated hereby have been duly authorized by all requisite (anti to the extent applicable to Purchaser) corporate, partnership or limited liability corporation action.

(b) WHERE-IS/AS-IS. Purchaser and its designees agree to accept the applicable Contracts in a "WHERE-IS/AS-IS" condition.

ARTICLE V

COVENANTS

5.1 Further Transfers and Assurances. Seller and Purchaser will execute and deliver such further instruments of conveyance and transfer and take such additional action as Purchaser may reasonably request to effect, consummate, confirm or evidence the assignment to Purchaser's designees of the Contracts. This Section 5.1 shall survive for six (6) months following each respective Contract transferred by this Agreement.

5.2 Taxes. All charges for or in connection with the recording of any document or instrument contemplated hereby shall be paid by Purchaser's designees. Seller and Purchaser or Purchaser's designee, as required by local law, will file all necessary tax

returns and other documentation in connection with the taxes and fees encompassed in this Section 5.2 relating to the assignment of Contracts.

5.3 Insurance. Without the prior written consent of Purchaser, Seller will not cancel any insurance policy relating to any landfill site listed on Schedule A to the Settlement Agreement or permit any such policy to expire prior to the later of the Designation Period or the entry of a final Order either approving or denying any pending Designation Motion as of the expiration of the Designation Period Purchaser shall waive the Seller's obligations under the prior sentence in the event that after demand the Purchaser does not timely pay any amounts due under any such insurance policy. If Purchaser fails to pay the amounts due hereunder and the insurance policy lapses as a result, it will not be the responsibility of Seller to reinstate and it will not be a default of Seller under this Agreement. Seller shall not, on its own, cancel any such insurance policy.

ARTICLE VI

MISCELLANEOUS

6.1 Termination: Other Remedies.

(a) This Agreement may be terminated and the transactions contemplated hereby may be abandoned by the mutual consent of Purchaser and Seller.

(b) Upon termination of this Agreement pursuant to Section 6.1(a) above, the Contracts are immediately deemed rejected without further Order.

6.2 Default and Remedies,

(a) The Court shall retain jurisdiction over this Agreement in the event of any default by either Party.

(b) In the event of a material breach of or material default under, this Agreement by Purchaser prior to the Closing Date, Seller shall, provided Seller is not in material breach of or material default under, this Agreement, be entitled, as its sole and exclusive remedy, either (i) to terminate this Agreement or (ii) to seek specific performance of this Agreement. In the event of a material breach of, or material default under, this Agreement by Purchaser after the Closing Date, Seller shall, provided Seller is not in material breach of or material default under this Agreement, he entitled, as its sole and exclusive remedy, to seek specific performance of this Agreement.

6.3 Successors and Assigns. This Agreement is made solely and specifically by and for the benefit of the Parties, and their respective successors and assigns.

6.4 Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if and when delivered personally, or sent by facsimile transmission, or mailed, by certified or registered mail, return receipt requested, first class postage prepaid, or by Federal Express or some other reputable overnight carrier, to the Parties at the following addresses and facsimile numbers:

If to Seller addressed to:

Barry A. Chatz
Arnstein & Lehr LLP
120 S. Riverside Plaza, Suite 1200
Chicago, IL 60606
Fax Number: (312) 876-0288

If to Purchaser addressed to:

Gregory J. Jordan
Dykema Gossett PL LC
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606
Fax Number: (312) 876-1155

or to such other place and with such other copies as any Party may indicate by written notice to the other Party provided in the manner set Furth above.

6.5 Entire Agreement. This Agreement, and the agreements referenced herein (including without limitation, the Settlement Agreement and the exhibits to the Settlement Agreement) supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof. This Agreement and other documents to be delivered in .connection herewith, including without limitation the Settlement Agreement, contains the sole and entire agreement between the Parties with respect to the subject matter hereof Notwithstanding the foregoing, the Settlement Agreement shall continue to be a binding agreement between the Parties. To thc extent that there are any discrepancies between the Settlement ,Agreement and this Agreement, the terms oldie Settlement Agreement shall control.

6.6 Waiver. Except as otherwise specifically provided for in this Agreement, any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof. To be effective, each such waiver shall be in writing, shall specifically refer to this Agreement and the term or condition being waived, and shall be executed by an Authorized Officer of such Party. A waiver on one occasion shall not be deemed a waiver of the same or any other breach on a future occasion.

6.7 Amendment. This Agreement may be modified or amended only in a writing duly executed by or on behalf of each of the Parties.

6.8 Counterparts: Facsimile Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed art original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile and facsimile signatures hereof shall be deemed effective and binding as original signatures.

6.9 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, rule, or regulation, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof. The remaining provisions of this Agreement shall remain in full force and effect, and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

6.10 Headings, Gender, Etc. The headings used in this Agreement have been inserted for convenience, do not modify the terms of this Agreement and do not constitute matter to be construed or interpreted in connection with this Agreement. Unless the context of this Agreement otherwise requires, (a) words of any gender shall be deemed to include each other Gender, (b) words using the singular or plural

number shall also include the plural or singular number, respectively, (c) references to "hereof," "herein," "hereby" and similar terms shall refer to this entire Agreement, and (d) the words "include" and "including" shall be construed as incorporating "but not limited to" or "without limitation." The language used in this Agreement shall be deemed to the language chosen by the Parties to express their mutual intent and no rule of strict construction shall he applied against any Person.

6.11 Continuing Jurisdiction. The Parties agree that the Court shall retain jurisdiction over the enforcement of this Agreement, including, but not limited to, the performance of the obligations and transactions contemplated hereunder.

6.12 Choice of Law. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the laws of the State of Illinois. In the event of any litigation concerning this Agreement, proper venue shall be in the Court and the Parties consent to such jurisdiction.

6.13 No Partnership or Joint Venture. Nothing contained in this Agreement shall be deemed to create a partnership, joint venture, or any other relationship other than that of seller and purchaser between the Parties.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed as of the date first above written. .

PURCHASER:

CHIPLEASE, INC.

By: _____
Leon Greenblatt,
Secretary

SCATTERED
CORPORATION
By: _____
Leon Greenblatt,
President

SELLER:

THE CHAPTER 7
BANKRUPTCY
ESTATE OF RESOURCE
TECHNOLOGY
CORPORATION

By: _____
Jay A. Steinberg, not
individually but solely as
Chapter 7 Trustee for the
Estate of Resource
Technology Corporation

EXHIBIT C

CONTRACT LIST

Party/Site	Title of Document	Between	Date Document
Bi-State	Agreement	Resource Technology Corporation and Noble Earth Corporation	10/27/95
Bi-State	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bi-State	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Agreement	Resource Technology Corporation and City of Columbus, GA	08/15/95

Party/Site	Title of Document	Between	Date Document
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Congress/ Hillside	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Congress/ Hillside	Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas to Electric Plant	Resource Technology Corporation and Congress Development Company	12/02/97

Party/Site	Title of Document	Between	Date Document
Congress/ Hillside	Agreement for Construction and Operation of Gas Collection Facility and Gas to Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/ Hillside	First Amendment to Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas to Electric Plant	Resource Technology Corporation and Congress Development Company	06/30/99
Congress/ Hillside	Second Amendment to Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas to Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96

Party/Site	Title of Document	Between	Date Document
Congress/ Hillside	Security Agreement	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/ Hillside	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	05/15/99
Congress/ Hillside	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of Corpus Christi	11/26/96
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Fort Dodge	Agreement	Resource Technology Corporation and the North Central Iowa Regional Solid Waste Agency	10/28/94
Fort Dodge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Fort Dodge	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Gary	Agreement	Resource Technology Corporation and the City of Gary, Indiana	12/26/96
Gary	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
GNOL	Agreement	Resource Technology Corporation and Southern Recovery Management Inc.	09/18/96
GNOL	Addendum to Contract Between Resource Technology Corporation and Southern Recovery Management, Inc.	Resource Technology Corporation and Southern Recovery Management Inc.	09/18/96
Kewanee	Kewanee Landfill (No Gas Contract National Closure owns the site) Deed In Trust	American National Bank and Trust Company Chicago	03/31/95
Kewanee	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Kewanee	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Lansing	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Litchfield	Agreement	Resource Technology Corporation and Liberty waste of Ohio	12/30/96
Litchfield	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Mobile	Agreement	Resource Technology Corporation and Trans-American Waste Industries Inc.	12/23/96

Party/Site	Title of Document	Between	Date Document
Mobile	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Mobile	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Agreement The City of New Haven and Resource Technology Corporation Pertaining to Landfill Gas-To-Energy Conversion Project	Resource Technology Corporation and The City of New Haven	12/31/96
New Haven	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement Corp.	06/19/97
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
Peoria	First Amendment to Lease	Resource Technology Corporation and City and County of Peoria	06/11/96
Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97
Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97
Peoria	Fourth Amendment to Lease	Resource Technology Corporation and City and County of Peoria	10/28/97

Party/Site	Title of Document	Between	Date Document
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)"	04/10/2002

Party/Site	Title of Document	Between	Date Document
Pontiac	Agreement	Resource Technology Corporation and American Disposal Service, Inc.	12/21/95
Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	08/01/2004
Pontiac	O&M	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)"	04/10/2002
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Sangamon (Springfield)	Agreement	Resource Technology Corporation and ESG Watts, Inc.	05/26/95
Sangamon (Springfield)	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Sangamon (Springfield)	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates
Sangamon (Springfield)	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Taylor Ridge	Agreement	Resource Technology Corporation and ESG Watts Inc.	05/26/95
Taylor Ridge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
Viola	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Agreement	Resource Technology Corporation and ESG Watts Inc.	08/01/96
Wyandot	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Service	12/21/95

Party/Site	Title of Document	Between	Date Document
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Solar Turbines	Services and Maintenance Agreement	Resource Technology Corporation. Network Electric Company and Solar Turbines Incorporated	11/17/00
Solar Turbines	Services and Maintenance Agreement	Resource Technology Corporation. Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Party/Site	Title of Document	Between	Date Document
All Sites	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
All Sites	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
Multi-Site	Multi-Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site	Environmental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource Technology and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology and Richard Walker	1997

Party/Site	Title of Document	Between	Date Document
Multi-Site	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

EXHIBIT D

RELEASE OF TRUSTEE, DEBTOR AND ESTATE

RELEASE

In consideration *of the payment of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged*, provided by Jay A. Steinberg, both individually and as the Chapter 7 Trustee (the 'Chapter 7 Trustee") for the estate of Resource Technology Corporation (the "Estate"), Chiplease, Inc. Elizabeth Sharp, Michael May, Rumpelstiltskin (USA) Corp., Scattered Corporation, Loop Corp,, Loop Properties, Inc., Banco Panamericano, Inc., Repurchase Corp., H&M Partners, GP, EZ Links Golf, LLC, EZ Links Golf, Inc., Green Gas Delaware Statutory Trust (previously identified as Green Gas Delaware Business Trust), South `Beach Securities, Inc., 200 West Properties, LP, 200 West Partners, Inc., Old Colony Partners, LP, Old Colony Properties, Inc_ Telegraph Properties LP, Telegraph Properties, Inc., Randolph Properties, LP, Randolph Properties, Inc., Pontiac Statutory Trust (f/k/a Pontiac Business Trust), Voltaire Gas and Electric, Inc., Archimedes Gas and Electric, Inc., Red Gas, Limited Liability Company and Pink Gas, Limited Liability Company, Leon Greenblatt, II, Leon Greenblatt, I11, Richard Nichols, James Nichols, Andrew Jaheika, Robert Jahelka, David Neuhauser and Leslie Jabine, and their respective officers, shareholders, directors, affiliates, trustees, employees, attorneys, assigns, successors, heirs and agents (collectively and individually the "Releasing Parties") hereby release and forever discharge the Chapter 7 Trustee, individually and in his capacity as Chapter 7 Trustee, and the Estate and their respective employees, attorneys, advisors,

successors, assigns and agents from any and all responsibilities, disputes and causes of action of every nature whatsoever, liquidated or unliquidated, known or unknown, matured or unmatured, fixed or contingent, which the Releasing Parties now own or hold or have at any time heretofore owned or held, or owned or held in the future against the Chapter 7 Trustee, Individually and in his capacity as Chapter 7 Trustee, or the Estate (collectively or individually), related in any way to (1) Resource Technology Corporation, (2) Resource Technology Corporation's assets and liabilities, (3) related to any actions taken or not taken by the Chapter 7 Trustee concerning or relating to Resource Technology Corporation's bankruptcy case, Case No. 99-35434, currently pending in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Case"), any adversary proceeding on behalf of or against the Estate arising from or related to the Bankruptcy Case or any appeal of a ruling in favor of the Estate and against any of the Releasing Parties arising from the Bankruptcy Case or any adversary proceeding, including any past, present or future claims against the Chapter 7 Trustee or the Estate, which the Releasing Parties may have or had at any time. Notwithstanding anything set forth herein to the contrary, the Releasing Parties do not release and/or discharge the Estate from claims, rights, demands, liabilities, responsibilities, disputes, causes of action and obligations arising out of any proof of claim that any of the Releasing Parties have or may file against the Estate, and security interest that any of the Releasing Parties may hold to secure the repayment of an obligation owing by Resource Technology Corporation or the Estate, any of the Releasing Parties rights to prosecute any appeal currently pending or

to file a notice of appeal including a writ of certiorari and the right to seek further appeal, or any claims, rights, demands, liabilities, responsibilities, disputes, causes of action and obligations arising out of or set forth in the Motion of Chapter 7 Trustee for an Order Pursuant to 11 U.S.C. §363 and F.R.B.P. 9019 to (i) Approve Settlement, (ii) Authorize the Conveyance and Abandonment of Certain Estate Assets, (iii) Approve a Designation Rights Agreement, (iv) Authorize The Disbursement Of $250,000 To NEC Electric Corporation and (v) Approve Shortened Notice Filed by the Chapter 7 Trustee on Behalf of the Estate in the Bankruptcy Case.

Notwithstanding the terms of this Release, nothing shall terminate any rights, responsibilities and obligations under any pre-petition loan documents and post-petition debtor in possession loan documents granted by Resource Technology Corporation or the Estate.

IN WITNESS WHEREOF, the undersigned has caused this Release to be executed as of March __ 2006.

RELEASING PARTIES:

CHIPLEASE, INC.

By: _____
Its Agent and Officer

MICHAEL MAY

By: _____
Michael May, Individually

SCATTERED CORPORATION

By: _____
Its Agent and Officer

ELIZABETH SHARP

By: _____
Elizabeth Sharp, Individually

RUMPELSTILTSKIN (USA) CORP.

By: _____
Its Agent and Officer

LOOP CORP.

By: _____
Its Agent and Officer

LOOP PROPERTIES, INC.

By: _____
Its Agent and Officer

REPURCHASE CORP.

By: _____
Its Agent and Officer

BANCO PANAMERICANO, INC.

By: _____
Its Agent and Officer

H&M PARTNERS, GP

By: _____
Its Agent and Officer

EZ LINKS GOLF, LLC

By:_____.
Its Agent and Officer

EZ LINKS GOLF, LLC

By:_____.
Its Agent and Officer

Green Gas Delaware Statutory Trust

By:_____.
Its Agent and Trustee

South Beach Securities, Inc.

By:_____.
Its Agent and Officer

200 West Properties, LP

By:_____.
Its Agent and General Partner

200 West Partners, Inc.

By:_____.
Its Agent and Officer

Old Colony Partners, LP

By:_____.
Its Agent and General Partner

Old Colony Properties, Inc.

By:_____.
Its Agent and Officer

Telegraph Properties LP

By:_____.
I Its Agent and General Partner

Telegraph Properties, Inc.

By:_____.
Its Agent and Officer

Randolph Properties, LP

By:_____.
Its Agent and General Partner

Randolph Properties Inc.

By:_____.
Its Agent and Officer

Pontiac Statutory Trust

By:_____.
Michael Horrell
Its Agent and General Partner

Voltaire Gas And Electric, Inc.

By:_____.
Its Agent and Officer

EXHIBIT E
RELEASE OF BANCO SECURED LENDERS AND OTHER PERSONS

EZ LINKS GOLF, LLC

By:_____.
Its Agent and Officer

EZ LINKS GOLF, LLC

By:_____.
Its Agent and Officer

Green Gas Delaware Statutory Trust

By:_____.
Its Agent and Trustee

South Beach Securities, Inc.

By:_____.
Its Agent and Officer

200 West Properties, LP

By:_____.
Its Agent and General Partner

200 West Partners, Inc.

By:_____.
Its Agent and Officer

Old Colony Partners, LP

By:_____.
Its Agent and General Partner

Old Colony Properties, Inc.

By:_____.
Its Agent and Officer

Telegraph Properties LP

By:_____.
I Its Agent and General Partner

Telegraph Properties, Inc.

By:_____.
Its Agent and Officer

Randolph Properties, LP

Randolph Properties

By:_____.
Its Agent and General Partner

Inc.
By:_____.
Its Agent and Officer

Pontiac Statutory Trust

By:_____.
Michael Horrell
Its Agent and General Partner

Voltaire Gas And Electric, Inc.
By:_____.
Its Agent and Officer

Archimedes Gas and Electric Inc.
By:_____.
Its Agent and Officer

Red Gas, Limited Liability Company
By:_____.
Its Agent and Officer

Pink Gas, Limited Liability Company
By:_____.
Its Agent and Officer

Leon Greenblatt, II

By:_____.
Leon Greenblatt, II
Individually

Leon Greenblatt, III
By:_____.
Leon Greenblatt, II
Individually

Richard Nichols
By:_____.
Richard Nichols,
Individually

James Nichols
By:_____.
James Nichols, Individually

Andrew Jahelka
By:_____.
Andrew Jahelka,
Individually

Robert Jahelka
By:_____.
Robert Jahelka Individually

David Neuhauser
By:_____.
David Neuhauser,
Individually

Leslie Jabine

By:_____.
Leslie Jabine Individually

RELEASE

In consideration of the payment of Ten Dollars and other good and valuable consideration by Chiplease, Inc. for and an behalf of its itself, Elizabeth Sharp, Michael May, Rumpelstiltskin (USA) Corp., Scattered Corporation, Loop Corp., Loop Properties, Inc., Banco Panamericano, Inc., Repurchase Corp., H&M Partners, GP, EZ Links Golf, LLC, EZ Links Golf, Inc. Delaware Statutory Trust (previously identified as Green Gas Delaware Business Trust), South Beach Securities, Inc., 200 West Properties, LP, 200 West Partners. Inc., Old Colony Partners, LP, Old Colony Properties, Inc., Telegraph Properties LP, Telegraph Properties, Inc., Randolph Properties, LP, Randolph Properties, Inc„ Pontiac Statutory Trust (f/k/a Pontiac Business Trust), Voltaire Gas and Electric, Inc., Archimedes Gas and Electric, Inc., Red Gas, Limited Liability Company and Pink Gas, Limited Liability Company, Leon Greenblatt, II, Leon Greenblatt, Ill, Richard Nichols. James Nichols, Andrew Jahelka, Robert Jahelka, David Neuhauser and Leslie Jabine (collectively and Individually the "Released Parties") *to Jay A. Steinberg, not Individually but solely as the Chapter 7 Trustee (the "Chapter 7 Trustee")* for the Estate of Resource Technology Corporation, (hereinafter the "Estate"), and to Jay A. Steinberg, individually in the limited capacity as a releasing party (the "Releasing Parties"), and their respective officers, shareholders, directors, affiliates, trustees, advisors, employees, attorneys, assigns, successors. heirs and agents hereby release and forever discharge the Released Parties and their respective officers, shareholders, affiliates, directors, trustees, employees, attorneys, successors, assigns and agents from any and all claims, rights, demands, liabilities, responsibIlities,

disputes, causes of action and obligations of every nature whatsoever, liquidated or unliquidated, known or unknown, matured or unmatured, fixed or contingent, which the *Chapter 7* Trustee, individually and in his capacity as *Chapter 7* Trustee, or the Estate now owns or holds or has at any time heretofore owned or held or owned or held in the future against the Released parties (collectively or individually), related in any way to RTC. RTC's bankruptcy case, Case No. 99-35434, currently pendIng in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Case"), any adversary proceedIng arising from or related to the Bankruptcy Case or any appeal arising from the Bankruptcy Case or any adversary proceeding, and any past, present or future claims against the Released parties, individually or collectively, and each of them, which the *Chapter 7* Trustee, individually and in his capacity as *Chapter 7* Trustee, the Estate or Resource Technology Corporation may have or had at any time. Notwithstanding anything set forth herein to the contrary, the *Chapter 7* Trustee and the Estate do not release and/or discharge the Released Parties from claims, rights, demands, liabilities, responsibilities, disputes, causes of action and obligations arising out of or set forth in the Motion of *Chapter 7* Trustee for an Order Pursuant to 11 U.S.C. § 363 and F.R.B,P. 9019 to (I) Approve Settlement, (ii) Authorize the Conveyance and Abandonment of Certain Estate Assets, (iii) Approve a Designation Rights Agreement, (iv) Authorize The Disbursement Of $250,000 To NEC Electric Corporation and (v) Approve Shortened Notice Filed by the *Chapter 7* Trustee on Behalf of the Estate in the Bankruptcy Case.

IN WITNESS WHEREOF, the undersigned has caused this Release to be executed as of March __ 2006.

The Estate of Resource Technology Corporation:

By: _____
Jay A. Steinberg, not individually but
Soley as Chapter 7 Trustee

_____
Jay A. Steinberg, individually in the limited
capacity as a Releasing Party

APPENDIX P

Resource Technology Corporation
330 South Wells, Suite 711
Chicago, IL 60606
312-341-4059 - Telephone
312-341-9596 - Fax

April 28, 2006

NOTICE OF EXTENSION

Via Certified Mail –
Return Receipt Requested

Richard De Young, President
American Disposal Services, Inc.
745 McClintock Drive, Suite 305
Burr Ridge, IL 60521

Re: Clarion, Pontiac, Wheatland, and Wyandot
Resource Technology Corp. ("RTC") and
American Disposal Services, Inc.

Dear Mr. DeYoung:

Pursuant to the RTC Settlement Order dated March 18, 2006 (the "Order"), Scattered Corporation has designated the above referenced contracts for assumption and assignment consistent with the Designation Rights Agreement as approved by the Order. A Court Hearing will be scheduled to determine the ability to assume and assign and the amount of cure costs, if any, and adequate assurance of future performance by the assignee. The above contracts require a notice concerning the extension of the various contracts. As a result of previous Court Orders extending the time to assume or reject executory contracts and unexpired leased and to extend the time to give any notices required by said contracts or leases, in the event the Court approves

the assumption and assignment, this letter is to serve as notice of the extension of the contracts until December 21, 2010. If the Court does not approve an assumption and assignment, the contracts will be deemed rejected and no extension will be operative.

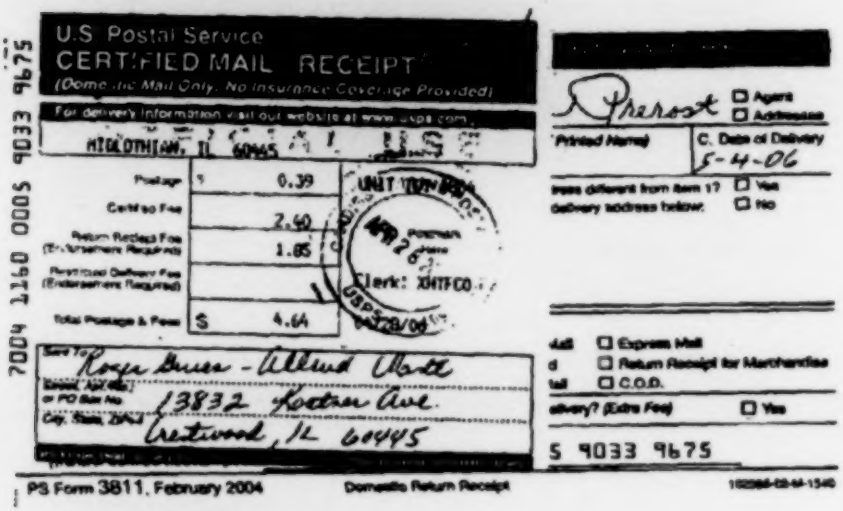
I am providing this notice in my capacity as President of Resource Technology Corporation and in conformance with the terms of that certain contract entitled "Agreement" and dated December 21, 1995 between RTC and American Disposal Services, Inc. ("the Agreement") and various orders entered in the bankruptcy case filed as In re Resource Technology Corporation, Case No. 99-35434 pending in the United States Bankruptcy Court for the Northern District of Illinois.

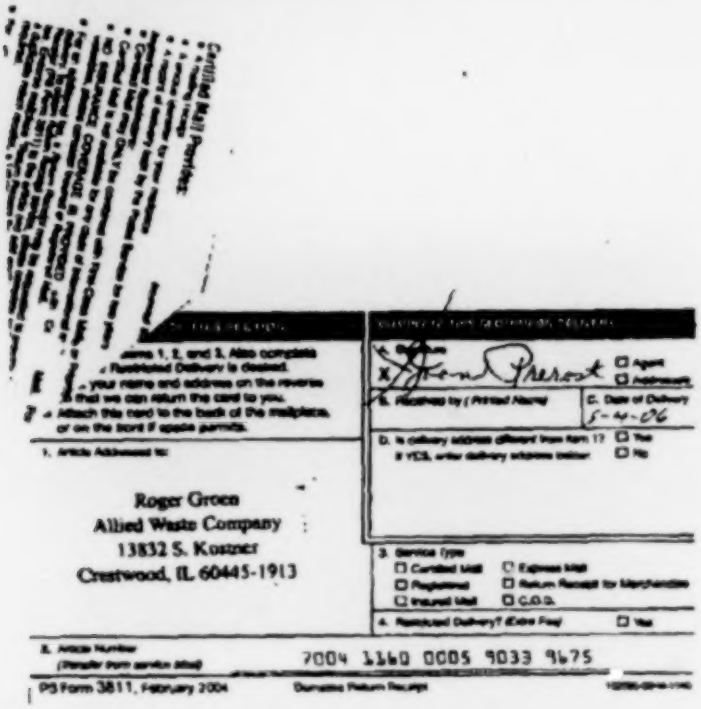
Resource Technology Corporation notifies you, in accordance with the terms of the Agreement, and pursuant to the above-referenced Settlement Agreement, Designation Rights Agreement and directions that, in the event the Court approves the assumption and assignment of the contracts, Resource Technology Corporation renews and extends the Agreement for an additional five (5) years from the original ten (10) year term. Accordingly, the Agreement shall be continued to December 21, 2010. As stated previously, in the event the Court does not approve the assumption and assignment, the contracts will be deemed rejected and no extension will be operative.

This letter shall be attached to the Agreement and made a part thereof.

/s/ John Connolly
JOHN CONNOLLY, President
Resource Technology Corporation

cc: Terrance W. Stein
Roger Groen, Regional VP - Allied Waste
Jay Steinberg, Trustee
Scattered Corporation


U.S Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com
HICKORY HILLS, IL 60457
Postage $ 0.39
Certified Fee 2.40
Return Receipt Fee (Endorsement Required) 1.85
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $ 4.64
Sent To Roger Groen - Allied Waste
Street, Apt. No.; or PO Box No. 13832 Kostner Ave.
City, State, ZIP+4 Crestwood, IL 60445
7004 1160 0005 9033 9675
PS Form 3811, February 2004 Domestic Return Receipt


Roger Groen
Allied Waste Company
13832 S. Kostner
Crestwood, IL 60445-1913
7004 1160 0005 9033 9675
PS Form 3811, February 2004 Domestic Return Receipt

BEST AVAILABLE COPY

APPENDIX Q

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: May 2, 2006

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on Tuesday, May 2, 2006 at 10:00 a.m. or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy Judge Eugene R. Wedoff, or any other judge sitting in his stead, in Courtroom 744 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and then and there present the attached MOTION OF CHAPTER 7 TRUSTEE TO DETERMINE PROPRIETY OF ASSUMPTION AND ASSIGNMENT OF CERTAIN AGREEMENTS AND EXTENSION OF TIME TO ASSUME OR REJECT SUCH AGREEMENTS, at which time and place you may appear as you see fit.

JAY STEINBERG, no, individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: May 2. 2006

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

MOTION OF CHAPTER 7 TRUSTEE TO DETERMINE PROPRIETY OF ASSUMPTION AND ASSIGNMENT OF CERTAIN AGREEMENTS AND EXTENSION OF TIME TO ASSUME OR REJECT SUCH AGREEMENTS

Jay A. Steinberg, not individually, but solely as the Chapter 7 Trustee for the estate of Resource Technology Corporation case (the "Trustee"), pursuant to Sections 105(a) and 365,[1] respectfully moves this Court for entry of an order determining the propriety of assumption and assignment of certain agreements and for an extension of time to assume or reject such agreements until such time as the propriety issue is resolved. In support of this Motion, the Trustee respectfully represents as follows:

INTRODUCTION

There has been much contention between the landfill owners and the Debtor's estate as to the

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[1] Unless otherwise noted, references to "Section __" are to the United States Bankruptcy Code 11 U.S.C., §§101 through 1330.

ability for the Estate to assume and assign certain contracts. The landfill owners have contended that certain contracts have already terminated and, therefore, those contracts can no longer be assumed and assigned. The Estate has filed another motion seeking to assume and assign certain contracts (as discussed below) to Scattered Corporation ("Scattered"). Scattered has requested that the Estate seek assumption and assignment of other contracts listed below (the "Contracts at Issue"). The Estate believes that the landfill owners may have a justified basis to assert that the time to assume or reject the Contracts at Issue has previously terminated. Accordingly, the Estate requests a Court determination of the propriety for the assumption and assignment of these contracts listed on Exhibit A to this Motion.

BACKGROUND

1. On November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code was filed against Resource Technology Corporation (the "Debtor").

2. An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11.

3. Thereafter, Gregg E. Szilagy was appointed as the Chapter 11 Trustee.

4. On September 14, 2005, creditors of the Debtor's estate moved to convert the case to Chapter 7. On September 21, 2005, this court entered an order converting this case to Chapter 7.

5. Thereafter, Trustee was appointed as the Interim Chapter 7 Trustee. On November 4, 2005, the § 341 meeting of creditors was held and concluded. Trustee is now the permanent Trustee herein.

6. The Debtor is in the business of collecting and selling methane gas from landfills. As such, the Debtor is a party to numerous landfill agreements.

7. During the course of the Chapter 7 case, the Estate has sought and received extensions of time to assume and reject certain executory contracts and unexpired leases of real property listed on the orders, through and including April 28, 2006. The lessors to the executory contracts and unexpired leases of real property have retained their rights to assert that any contract or lease has previously terminated, and is not assumable or assignable.

8. In February 2006, the Estate entered into an agreement with Leon Greenblatt, Banco Panamericano, Chiplease, Inc. and Scattered Corporation (the "Greenblatt Entities") to settle all disputes between the Estate and the Greenblatt Entities and to convey certain assets to the Greenblatt Entities. Part and parcel with the settlement agreement, the parties entered into a Designation Rights Agreement pursuant to which the Greenblatt Entities purchased the right to designate executory contracts and unexpired leases of real property for assumption and assignment by the Estate, subject to Court approval, and subject to the propriety of the assumption and assignment of any designated contract or lease.

9. On March 16, 2006, the Court entered an order approving the settlement between the Estate and the Greenblatt Entities, and approving the terms of the Designation Rights Agreement.

10. On April 27, 2006, the Greenblatt Entities designated certain contracts listed on Exhibit B for the Estate's assumption and assignment to Scattered (the "Designated Contracts"). With respect to a

majority of the Designated Contracts, the Estate has filed a Motion to Assume and Assign such contracts to Scattered. However, with respect to the remaining Designated Contracts (the Contracts at Issue), the Estate is seeking the Court to determine the propriety of the assumption and assignment of the Contracts at Issue.

JURISDICTION

11. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334.The Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case in this District is appropriate under 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

12. By this Motion, the Trustee is seeking a determination by the Court regarding the propriety of assuming and assigning the contracts listed on the attached Exhibit A ("Contracts at Issue"), which include generally the following:

i. all contracts relating to the Congress/ Hillside landfill (collectively, the "Congress Contracts");

ii. all contracts relating to the McCook/Lyons landfill (collectively, the "McCook Contracts");

iii. all contracts relating to the Rosencranse landfill (collectively, the "Rosencranse Contracts"); and

iv. employment contracts between the Debtor and John Connolly, and the Debtor and Richard Walker (collectively, the "Employment Contracts").

13. Further, the Trustee is seeking a very brief extension of time to assume or reject the Contracts at Issue pursuant to section 365(d) of the Bankruptcy Code until such time as the proprietary issue is resolved. In prior motions, the Trustee has extended the time to assume or reject, through and including April 28, 2006.

DISCUSSION

A. Proprietary Issues

14. The reasons differ with respect to each Contract at Issue as to why any given Contract at Issue may not be assumable or assignable. Accordingly, the Estate shall address each Contract at Issue in turn:

Assumption of the Congress Contracts

15. On or about March 16, 2006, the Estate presented a Motion for an Order Extending the Time for the Trustee to Assume or Reject the Congress, Corpus Christi and Columbus Gas Rights Agreements and All Other Executory Contracts Relating to Those Sites, If Any (the "Congress Extension Motion"). The Court denied the Congress Extension Motion with respect to the Congress Contracts, but extended the time to assume or reject all executory contracts and unexpired leases of real property relating to the Columbus, Georgia and Corpus Christi landfill sites to April 28, 2006. A copy of the Order relating to the Congress Extension Motion is attached hereto as Exhibit C.

16. The reason the Court denied extending the time to assume or reject the Congress Contracts was because the Estate had previously rejected the Congress Contracts as part of the Estate's sale of certain assets to DTE Biomass Energy, Inc.

17. Accordingly, the Estate believes that since (i) the Congress Contracts were rejected; and (ii) the deadline to assume or reject the Congress Contracts has expired, the Estate cannot comply with the Greenblatt Entities' designation request to assume and assign the Congress Contracts to Scattered.

Designation of McCook Facility

18. The Court has extended the time for the Estate to assume or reject the McCook Contracts through and including April 28, 2006, subject to the lessors' rights to assert that the McCook Contracts have previously terminated.

19. American Grading Company, lessor of the McCook landfill site, asserts that the lease agreement between American Grading and the Debtor terminated on January 5, 2006. A recitation of American Grading's position is attached hereto as Exhibit D, which includes a letter to the Estate from American Grading's counsel, along with an affidavit signed by the Chapter 11 trustee supporting American Grading's assertions. As indicated in the letter, American Grading Company has threatened to file a motion for sanctions under Rule 11 of the Federal Rules of Civil Procedure if the Estate attempts to assign the Agreement.

20. The Trustee and his counsel have evaluated Greenblatt Entities' designation of the McCook Contracts and does not believe that the Estate has the right to assume and assign such contracts.

21. As such, out of an abundance of caution, the Estate therefore requests that this Court determine the propriety of the designation.

Designation of the Rosencranse Contracts

22. On March 16, 2006, the Court entered an Order on the Fifth Motion of the Estate for an Extension of Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property, pursuant to which the Court extended the time for the Estate to assume or reject the contracts listed on the attached exhibit to the Order. A copy of the Order is attached hereto as Exhibit E.

23. The Court specifically directed the Estate, on more than one occasion, to remove the Rosencranse Contracts from the Order on the basis that the Rosencranse Contracts previously terminated, and the Court would not extend the time to assume or reject the Rosencranse Contracts. Accordingly, the extension of time granted to the Estate through April 28, 2006, did not include the Rosencranse Contracts.

24. Accordingly, the Estate believes that since the deadline to assume or reject the Rosencranse Contracts has expired, the Estate cannot comply with the Greenblatt Entities' designation request to assume and assign the Rosencranse Contracts to Scattered.

The Employment Contracts

25. The Estate has never sought an extension of time to assume or reject the Employment Contracts, as the Estate did not believe that assumption or assignment of such contracts would benefit the Estate's creditors. Accordingly, the deadline to assume or reject the Employment Contracts has long passed.

B. Extension of Time to Assume or Reject

26. In light of the foregoing determination, the Trustee requests that the Court extend the time by which the Trustee may assume or reject the Contracts at Issue, to the extent that this Court determines that the Contracts at Issue are executory and/or unexpired.

27. Section 365(d)(1) provides:

> In a case under chapter 7 of this title, if the Trustee does not assume or reject an executory contract or unexpired lease . . . within 60 days after the order for relief, or within such additional time as the court, for cause within such 60 day period, fixes, then such contract or lease is deemed rejected.

11 U.S.C. § 365(d)(1). Further, Section 365(d)(4) provides:

> Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, *or within such additional time as the court, for cause, within such 60-day period, fixes*, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.

11 U.S.C. § 365(d)(4) (emphasis added).

NOTICE

28. Notice of this Motion has been given to: (a) all parties to the Contracts at Issue and their counsel; (b) the Office of the United States Trustee; (c) the Debtor's 20 largest unsecured creditors; and (d) other

parties in interest who have requested service. In light of the nature of the relief requested herein, the Trustee submits that no further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order (i) determining the propriety of designating the Contracts at Issue; (ii) extending the time to assume or reject the Contracts at Issue until such time as the proprietary issue is resolved; and (iii) granting such other and further relief as the Court deems just and proper.

Dated: April 28, 2006

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Exhibit A—Contracts at issue

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Congress/ Hillside	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Congress/ Hillside	Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	12/02/97
Congress/ Hillside	Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96

Exhibit A—Contracts at issue

Congress/ Hillside	First Amendment to Amended and Re-stated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	06/30/99
Congress/ Hillside	Second Amendment to Amended and Re-stated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/ Hillside	Security Agreement	Resource Technology Corporation and Congress Development Company	11/29/96

Exhibit A—Contracts at issue

Congress/ Hillside	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	05/15/99
Congress/ Hillside	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit A—Contracts at issue

Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	License Agreement	Resource Technology Corporation and Rosencranse Corporation	12/31/96
John Connolly	Employment Contract	Resource technology Corporation and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology Corporation and Richard Walker	1997

Exhibit B – Designated Contracts by Greenblatt Entities

Bi-State	Agreement	Resource Technology Corporation and Noble Earth Corporation	12/27/95
Bi-State	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bi-State	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Allied Waste Industries)	07/01/99
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Columbus	Agreement	Resource Technology Corporation and City of Columbus, GA	08/15/95
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Congress/ Hillside	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Congress/ Hillside	Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	12/02/97

Exhibit B – Designated Contracts by Greenblatt Entities

Congress/ Hillside	Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/ Hillside	First Amendment to Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	06/30/99
Congress/ Hillside	Second Amendment to Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas To Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96

Exhibit B – Designated Contracts by Greenblatt Entities

Congress/ Hillside	Security Agreement	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/ Hillside	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	05/15/99
Congress/ Hillside	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of Corpus Christi	11/26/96
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Fort Dodge	Agreement	Resource Technology Corporation and the North Central Iowa Regional Solid Waste Agency	10/28/94
Fort Dodge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Fort Dodge	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Gary	Agreement	Resource Technology Corporation and the City of Gary, Indiana	12/26/96
Gary	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

GNOL	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
GNOL	Agreement	Resource Technology Corporation and Southern Recovery Management Inc.	09/18/96
GNOL	Addendum to Contract Between Resource Technology Corporation and Southern Recovery Management, Inc.	Resource Technology Corporation and Southern Recovery Management Inc.	09/18/96
Kewanee	Kewanee Landfill Deed In Trust	American National Bank and Trust Company of Chicago/National Closure Corporation	03/31/95
Kewanee	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Kewanee	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	04/24/95
Lansing	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates

Exhibit B – Designated Contracts by Greenblatt Entities

Litchfield	Agreement	Resource Technology Corporation and Liberty Waste of Ohio (Allied Waste Industries)	12/30/96
Litchfield	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Litchfield	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95

Exhibit B – Designated Contracts by Greenblatt Entities

Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Mobile	Agreement	Resource Technology Corporation and Trans-American Waste Industries, Inc.	12/23/96
Mobile	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer/ Mobile Gas	Various Dates

Exhibit B – Designated Contracts by Greenblatt Entities

Mobile	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Mobile	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Agreement The City of New Haven and Resource Technology Corporation Pertaining to Landfill Gas to Energy Conversion Project	Resource Technology Corporation and The City of New Haven	12/31/96
New Haven	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

New Haven	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement Corp.	06/19/97
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
Peoria	First Amendment to Lease	Resource Technology Corporation and City and County of Peoria	06/11/96
Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97

Exhibit B – Designated Contracts by Greenblatt Entities

Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97
Peoria	Fourth Amendment to Lease	Resource Technology Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Com-monwealth Edison	Various Dates

Exhibit B – Designated Contracts by Greenblatt Entities

Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Pontiac	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Pontiac	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	08/01/2004
Pontiac	Gas Rights and Collection Facilities lease	AECC Pontiac LLC	

Exhibit B – Designated Contracts by Greenblatt Entities

Pontiac	Gas Sales Agreement	AECC Pontiac LLC	
Pontiac	O&M Agreements	AECC Pontiac LLC	
Pontiac	Gas Rights and Collection Facilities lease	Red Gas, LLC	
Pontiac	Gas Sales Agreement	Red Gas, LLC	
Pontiac	O&M Agreements	Red Gas, LLC	
Pontiac	Gas Rights and Collection Facilities lease	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Archimedes Gas & Electric, Inc.	
Pontiac	O&M Agreements	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Rights and Collection Facilities lease	Voltaire Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Voltaire Gas & Electric, Inc.	
Pontiac	O&M Agreements	Voltaire Gas & Electric, Inc.	
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	License Agreement	Resource Technology Corporation and Rosencranse Corporation	12/31/96
Sangamon (Springfield)	Agreement	Resource Technology Corporation and ESG Watts, Inc.	05/26/95
Sangamon (Springfield)	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Sangamon (Springfield)	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates
Sangamon (Springfield)	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Taylor Ridge	Agreement	Resource Technology Corporation and ESG Watts Inc.	05/26/95
Taylor Ridge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Taylor Ridge	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Agreement	Resource Technology Corporation and ESG Watts Inc.	08/01/96

Exhibit B – Designated Contracts by Greenblatt Entities

Wheatland	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services Inc. including right to send notice extending the term of the contract period of five years as of the date of assignment	12/21/95
Wyandot	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Wyandot	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Services Inc. including right to send notice extending the term of the contract period of five years as of the date of assignment	12/21/95
Solar Turbines	Services and Maintenance Agreement	Resource Technology Corporation. Network Electric Company and Solar Turbines Incorporated	11/17/00

Exhibit B – Designated Contracts by Greenblatt Entities

Solar Turbines	Services and Maintenanc e Agreement	Resource Technology Corporation. Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Dela- ware Statu- tory Trust	07/01/99
All Sites	Gas Sales Agreements	Resource Technology Corporation and Green Gas Dela- ware Statu- tory Trust	07/01/99
All Sites	O&M Agreements	Resource Technology Corporation and Green Gas Dela- ware Statu- tory Trust	04/01/99
All Sites	O&M Agreement	Resource Technology Corporation and Green Gas Dela- ware Statu- tory Trust	07/01/99

Exhibit B – Designated Contracts by Greenblatt Entities

Multi-Site	Multi-Site Environ-mental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site	Environ-mental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource Technology and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology and Richard Walker	1997
Multi-Site	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

Exhibit C—Congress Extension Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER EXTENDING TIME FOR TRUSTEE
TO ASSUME OR REJECT CERTAIN
EXECUTORY CONTRACTS

This matter coming before the Court on the Amended Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Extending the Time for the Trustee to Assume or Reject the Congress, Corpus Christi and Columbus Gas Rights Agreements and All Other Executory Contracts Relating to Those Sites, If Any (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

2. The Trustee's time to assume or reject the following executory contracts (collectively, the "Agreements") is hereby extended to April 28, 2006, without prejudice to the lessors including without

limitation, Congress Development, to contend that the right to assume or reject has previously expired:

(a) all executory contracts and unexpired leases of nonresidential real property relating to the Debtor's Columbus, Georgia landfill site including any gas rights agreement relating thereto (the "Columbus Contracts"): and

(b) all executory contracts and unexpired leases of nonresidential real property relating to the Debtor's Corpus Christi (Elliot) landfill site including any gas rights agreements relating thereto (the "Corpus Christi Contracts").

3. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property, including the Agreements.

Dated: MAR. 16, 2006

ENTERED:

/s/ Eugene R.Wedoff
United States Bankruptcy Judge

Exhibit D—Letter from American Grading Company

April 14, 2006

gerald.munitzagoldbergkohn.com
direct phone: 312201 3906
direct fax: 312.332.2196

VIA FACSIMILE TRANSMISSION

Barry Chatz, Esq.
Arnstein & Lehr
120 S. Riverside Plaza, Suite 1200
Chicago, IL 60606

Re: Resource Technology Corporation—Lyons/
McCook Lease/Contract

Dear Barry:

As April 28 approaches, I thought it appropriate to set forth in writing why a request to assign the captioned Lease/Contract would not be a good faith motion. These are my thoughts:

1. In Jay's December 30, 2005 Emergency Mo tion, the first two sentences and the last sentence of paragraph 13 aver:

> The Lease provides that the estate can option for a 5-year renewal. The Trustee believes it is premature to renew the lease for 5 years. . . . Accordingly, the Trustee is seeking an extension of time to renew the lease through January 31, 2006.

Clearly, Jay did not believe the Contract had been renewed. There are no new facts suggesting otherwise.

2. After the January 3 hearing, AGC made two voluntary extensions for Jay to renew the Contract through noon on January 5, 2006. Jay did not renew the Contract by that time In fact, at 2:00 p.m. on

January 5, you obtained an order holding Greenblatt in technical contempt for sending a renewal letter to AGC on the ground that the letter was a usurpation of Jay's exclusive right to determine the disposition of the Contract.

3. The following facts were applicable to the McCook site on December 30, 2005 and January 3, 2006:

a. It had been declared to be in violation of Illinois environmental law;

b. No conversion of landfill gas to electrical energy had occurred at the site since November 18, 2005. Jay's attempts to repair the generating equipment had failed. Paragraph 11 of the Motion referred to the pre-November 18 operations as erradick [sic] and intermittent.

c. Jay had acknowledged that his current operations were not insured for personal liability or property damage. He further stated that he was without the funds to procure insurance.

Under these facts, a renewal of the Contract would not have been in the best interests of the estate. Real estate taxes for the five years ending December, 2010 are estimated at $200,000.

4. Jay's post-January 5, 2006 actions are consistent with termination. There has not been any attempt to repair the generating equipment and the Settlement Agreement permits Jay to walk away from environmental claims at various sites, including McCook. No reports of operations for 2005 have been furnished to AGC.

5. Enclosed is a copy of an affidavit in which Gregg Szilagyi states that he did not renew the Contract in September, 2005 or at any other time As recited in the affidavit, this statement corroborates the unworn statement he made in court in November, 2005. I shall fax you an executed copy upon receipt

6. The assertion that Gregg had vested apparent authority in John Connolly to renew the Contract is legally deficient. The concept of apparent authority is to protect the counterparty to the agreement, i.e., AGC. *See ILP Agency* § 62, C.J.S., Agency § 140; *Anetsberger v. Metropolitan Life Ins. Co.*, 14 F.3d 1226, 1234 (7th Cir. 1994). AGC did not rely upon Connolly's apparent authority but, in fact, rejected it in its letter dated September 30, 2005.

There would not have been any reason for Gregg to renew the Contract. The conversion/dismissal motion was in trial. He was likely to be replaced as trustee in the ensuing chapter 7 case and there already was talk about malpractice claims and bad business judgment decisions. I also suggest that a five year renewal of the Contract that would create an administrative expense is not an act in the ordinary course of bankruptcy administration and, therefore, would have caused Gregg to seek court approval.

It also is obvious that RTC's estate was not prejudiced but, in fact, was benefited by the September events. Jay had until January 5, 2006 to decide whether or not to renew. Under § 108, the renewal date would have been late November, 2005. As noted above, the decision not to renew made on January 5 was a prudent course of action.

7. I do not believe it would be good faith for Jay to contend that adequate assurance of future per-

formance of the Contract could take the form of a Greenblatt affiliate or an entity operated by former employees of RTC being the assignee. Did you see the article about the Congress site on the front page of Sunday's Tribune?

8. I think it unnecessary at this time to discuss whether the Contract could be assumed in light of the various defaults, including the environmental problem and pledge of investment grade securities.

Please contact me with your questions or comments. I do not want our relationship strained by a sanctions proceeding. If Jay refuses to make the assignment and Greenblatt asks Judge Wedoff to order him to do so, I would seek leave to intervene to oppose that relief. Upon consideration of the undisputed facts, I suggest the filing of a mandatory injunction motion would violate good faith. The Settlement Agreement should be interpreted as permitting legitimate motions, not abusive ones.

Very truly yours,

/s/ Gerald F. Munitz
GERALD F. MUNITZ

GFM:ly
cc: James DeSmidt

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

AFFIDAVIT OF GREGG E. SZILAGYI

I, Gregg E. Szilagyi, declare as follows:

I am an attorney at law licensed by the State of Illinois and a member of the bar of the United States District Court for the Northern District of Illinois. I have personal knowledge of the facts hereinafter stated and, if sworn as a witness, would be competent to testify to these facts.

2. During the period August 26, 2003 to September 21, 2005, I served as the duly appointed qualified and acting trustee of the chapter 11 estate of Resource Technology Corp. ("RTC").

3. Among the assets of RTC's estate was an agreement denominated "Lease" between American Grading Company ("AGC") and RTC, a copy of which is attached hereto as Exhibit 1. The agreement was interpreted by this Court as an executory contract (the "Contract") for the conversion by RTC of waste deposited on real property owned by AGC at Lyons, Illinois into electrical energy. See 254 B.R. 215 (Bankr. N.D. Ill. 2000). The real property owned by

AGC is sometimes referred to as the "Lyons" or "McCook" site.

4. The Contract was assumed in the chapter 11 case pursuant to § 365 of the Bankruptcy Code on July 11, 2002.

5. Paragraph 5 of the Contract provided for its termination on December 27, 2005 unless renewed for an additional five year period at least 90 days prior to its expiration.

6. Attached hereto as Exhibit 2 is a letter dated September 19, 2005 signed by John Connolly purportedly renewing the Contract through December, 2010. On September 19, 2005, and for a period of time prior and subsequent thereto, Mr. Connolly was an employee of the RTC estate.

7. At no time did I, as Trustee of RTC's estate, authorize Mr. Connolly or any other person to renew the Contract or execute and send the letter dated September 19, 2005 (Exhibit 2).

8. At no time from and after September 19, 2005 did I ratify, nor did I intend to ratify, the execution and mailing of the September 19, 2005 letter.

9. I received a copy of the letter dated September 30, 2005, attached hereto as Exhibit 3, from counsel for AGC at or about the date it bears. At no time did I refute the contents of the September 30, 2005 letter.

10. During the period September 14, 2005 to September 21, 2005, the motion to convert or dismiss the chapter 11 case was being tried. On September 21, 2005, the chapter 11 case was converted to a chapter 7 case. Jay Steinberg, Esq., was thereafter appointed interim chapter 7 trustee.

11. At or about September 21-23, 2005, I conferred with Mr. Steinberg regarding the transition of the administration of the case to him. Among the matters we discussed was the renewal of the Contract. I suggested to Mr. Steinberg that he obtain an extension of the time to renew the Contract from Gerald Munitz, AGC's counsel.

12. On November 15, 2005, I stated in open court, but not under oath, that in my capacity as trustee of RTC's estate I never authorized the Contract to be renewed. I unqualifiedly hereby reaffirm that statement.

13. Further affiant sayeth not.

I declare under penalty of perjury under the laws of the United States that the foregoing is true, and correct.

Executed this 15th day of April, 2006, at Chicago, Illinois.

/s/ Gregg E. Szilagyi
Gregg E. Szilagyi

Exhibit E—Order Extending Time to Assume or Reject Leases

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER FURTHER EXTENDING TIME FOR TRUSTEE TO ASSUME OR REJECT EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY

This matter coming before the Court on the Fifth Motion of Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee of Resource Technology Corporation for an Order Further Extending the Time for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Motion"); the Court having reviewed the Motion, finding notice to be sufficient and being otherwise fully informed in the premises,

IT IS HEREBY ORDERED THAT:

1. With respect to certain landfills identified on Exhibit A which are owned by American Disposal Services, Inc. and Allied Waste Industries, Inc.

(collectively, along with its respective subsidiaries and affiliates, "Allied"):

(a) In regards to that portion of the December 21, 1995 contract involving the Wheatland, Clarion and Wyandot landfill sites (the "Disputed Contract Sites"), and only to the extent RTC possesses any contract rights to or at the Disputed Contract Sites (which Allied disputes), the time by which the Trustee can move to assume or reject the Disputed Contract Site portion of the contract is extended to April 28, 2006.

(b) In regards to the Bloomington, Litchfield, and Sangamon (a/k/a Springfield) landfill sites, and only to the extent RTC possesses any contract rights to or at the Bloomington , Sangamon and Litchfield landfill sites, the time for the Trustee to move to assume or reject such contracts is extended to April 28, 2006.

2. The time for the Trustee to assume or reject all other executory contracts and/or unexpired leases of nonresidential real property listed on the attached Exhibit A is hereby extended to April 28, 2006.

3. Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right,

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This Order specifically includes the agreement between the Debtor and Sexton relating to the Bloomington site.

This Order specifically includes the agreement between the Debtor and ESG Watts relating to the Springfield/Sangamon site.

This Order specifically includes the agreement between the Debtor and Liberty Waste Services relating to the Litchfield site.

claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such contracts may have that such contracts have expired and/or been terminated prior to the date of this Order.

4. This Order shall not prejudice the right of the Trustee to seek additional extensions of time to assume or reject the estate's executory contracts and unexpired leases of nonresidential real property, including the Agreements.

Dated: MAR 16, 2006

ENTERED:
/s/ Eugene R. Wedoff
EUGENE R. WEDOFF
United States Bankruptcy Judge

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Site/ Facility	Date of Agreement	Party(ies) To Agreement(s)	Extension Date
Belvidere	08/11/1993	Mineral Resource, Inc.	February 28, 2006
Bi-State	10/27/1995	Noble Earth Corporation Erma Knoeppner	February 28, 2006
Bloomington	12/29/1995	Sexton Contractors Allied Waste Industries	February 28, 2006
Brimfield		CILCO/Commonwealth Edison (Power Purchase Agreement)	February 28, 2006
Clarion	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Danville	10/10/1994	Thomas 12th Street Disposal	February 28, 2006
Fort Dodge	10/28/1994	North Central Regional Solid Waste Agency	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Gary	12/26/1996	City of Gary, Indiana Texas Energy Transfer (Gas Sales Agreement)	February 28, 2006
GNOL	09/18/1996	Southern Recovery Management	February 28, 2006
Hillside		Commonwealth Edison (Power Purchase Agreement)	February 28, 2006
Kewanee		National Closure Corporation	February 28, 2006
Lansing	04/24/1995	John Sexton Contractors Sexton Companies Commonwealth Edison (Power Purchase Agreement) National Closure Corporation	February 28, 2006
Litchfield	12/30/1996	Liberty Waste Services of Ohio Allied Waste Industries	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Lyons/ McCook	12/27/1995	American Grading Company Common-wealth Edison (Power Pur-chase Agree-ment) Run Energy (O&M Agreement)	February 28, 2006
Mobile, AL		Texas Energy Transfer/ Mobile Gas (Gas Sales Agreement)	February 28, 2006
New Haven	12/31/1996	City of New Haven	February 28, 2006
New Orleans		Texas Energy Transfer (Gas Sales Agree-ment)	February 28, 2006
Ottawa	04/15/1997	States Land Improvement Corp.	February 28, 2006
Peoria	11/30/1995	City and County of Peoria CILCO (Power Purchase Agreement)	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Pontiac	12/21/1995	Solar Turbines (O&M Agreement) Commonwealth Edison Power Purchase Agreement) Nicor Gas	February 28, 2006
Sangamon (Springfield)	05/26/1995	ESG Watts, Inc. Commonwealth Edison/ CILCO (Power Purchase Agreement) Allied Waste Industries	February 28, 2006
Taylor Ridge	05/26/1995	ESG Watts Inc.	February 28, 2006
Viola	08/01/1996	ESG Watts Inc.	February 28, 2006
Wheatland	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006
Wyandot	12/21/1995	American Disposal Services, Inc. Allied Waste Industries	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Gas Rights and Collection Facilities Lease (All Sites)	Green Gas Delaware Statutory Trust	February 28, 2006
Gas Sales Agreement (All Sites)	Green Gas Delaware Statutory Trust	February 28, 2006
O&M Agreements (All Sites)	Green Gas Delaware Statutory Trust	February 28, 2006
Gas Rights and Collection Facilities (All Sites)	Pontiac Business Trust	February 28, 2006
Gas Sales Agreement (All Sites)	Pontiac Business Trust	February 28, 2006
O&M Agreements (All Sites)	Pontiac Business Trust	February 28, 2006

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Gas Rights and Collection Facilities Lease (All Sites)	AECC Pontiac LLC	February 28, 2006
Gas Sales Agreement (All Sites)	AECC Pontiac LLC	February 28, 2006
O&M Agreements (All Sites)	AECC Pontiac LLC	February 28, 2006
Gas Rights and Collection Facilities Lease (All Sites)	Red Gas, LLC	February 28, 2006
Gas Sales Agreement (All Sites)	Red Gas, LLC	February 28, 2006
O&M Agreements (All Sites)	Red Gas, LLC	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Gas Rights and Collection Facilities Lease (All Sites)	Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)	Archimedes Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)	Archimedes Gas & Electric, Inc.	February 28, 2006
Gas Rights and Collection Facilities Lease (All Sites)	Voltaire Gas & Electric, Inc.	February 28, 2006
Gas Sales Agreement (All Sites)	Voltaire Gas & Electric, Inc.	February 28, 2006
O&M Agreements (All Sites)	Voltaire Gas & Electric, Inc.	February 28, 2006

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Multi-site Environmental Permitting/ Monitoring		Trinity Consultants	February 28, 2006
Waste Condensate Disposal		RS Used Oil	February 28, 2006
Environmental Monitoring Software		Enviance, Inc.	February 28, 2006
Credit Agreement between RTC and Aquila Energy Capital	04/10/2002	Aquila Energy Capital Corporation	February 28, 2006
AGC Document No. 415 Standard Form of Design Build Agreement (Beecher)	08/09/2000	Network Electric	February 28, 2006

EXHIBIT A

Executory Contracts and/or Unexpired Leases

Construction Loan Agreement ($513,592.06) (Beecher)	12/08/2000	Network Electric	February 28, 2006
Construction Loan Agreement ($2,721,507.94)	12/08/2000	Network Electric	February 28, 2006
Equipment Lease Agreement (Beecher)	12/08/2000	Network Electric	February 28, 2006
Performance Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006

EXHIBIT A
Executory Contracts and/or Unexpired Leases

Payment Bond issued by Federal Insurance Company ($7MM) (Beecher)	03/2001	Network Electric	February 28, 2006
Confidentiality Agreement (Beecher)	04/11/2000	Network Electric	February 28, 2006
Letter Agreement (Beecher)	04/16/200	Network Electric	February 28, 2006
Participation Agreement (Beecher)	06/2000	Network Electric	February 28, 2006
Plant Upgrading Loan Agreement (Beecher)	08/11/2000	Network Electric	February 28, 2006

APPENDIX R

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7
Case No. 99 B 35434
Hon. Eugene R. Wedoff
Hearing Date: May 2, 2006
Hearing Time: 10:00 a.m.

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on Tuesday, May 2, 2006 at 10:00 a.m. or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy Judge Eugene R. Wedoff, or any other judge sitting in his stead, in Courtroom 744 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, and then and there present the attached MOTION OF CHAPTER 7 TRUSTEE TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS SUBJECT TO COURT APPROVAL OF (1) DEMONSTRATION BY THE DESIGNEE OF THE ABILITY TO PAY CURE COSTS; (2) DEMONSTRATION BY THE DESIGNEE OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE; (3) ASSUMPTION; AND (4) ASSIGNMENT, at which time and place you may appear as you see fit.

JAY STEINBERG, not individually, but solely as the CHAPTER 7 TRUSTEE FOR THE ESTATE OF RESOURCE TECHNOLOGY CORPORATION

By: /s/ Joy E. Levy
One of his Attorneys

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Chapter 7 Proceeding
Case No 99 B 35434
Hon. Eugene R. Wedoff
Chief U.S. Bankruptcy Judge

IN RE: RESOURCE TECHNOLOGY ORPORATION,
Debtor.

MOTION OF CHAPTER 7 TRUSTEE TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS SUBJECT TO COURT APPROVAL OF (1) DEMONSTRATION BY THE DESIGNEE OF THE ABILITY TO PAY CURE COSTS; (2) DEMONSTRATION BY THE DESIGNEE OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE; (3) ASSUMPTION; AND (4) ASSIGNMENT

The Estate of Resource Technology Corporation (the "Estate") by and through Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee for the Estate (the "Trustee"), acting by and through Barry A. Chatz, Miriam Stein and the law firm of Arnstein & Lehr LLP, as counsel for the Estate, moves this Court for entry of an order granting the Estate leave to assume certain executory contracts set forth herein, and to assign such contracts to Scattered Corporation, subject to Court approval of (1) demonstration by the designee of the ability to pay cure costs; (2) demonstration by the designee of adequate assurance of future performance; (3) as-

sumption; and (4) assignment. In support of this motion, the Trustee on behalf of the Estate states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §§157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

2. The statutory predicate for the motion is 11 U.S.C. §365 of the United States Bankruptcy Code (11 U.S.C. §101 et. seq., hereinafter the "Bankruptcy Code") and Rule 6006 of the Federal Rules of Bankruptcy Procedure (hereinafter "Fed. R. Bankr. P.").

BACKGROUND

3. On November 15, 1999, certain of creditors of Resource Technology Corporation ("RTC") filed an involuntary petition under chapter 7 of the Bankruptcy Code.

4. On or about January 18, 2000, RTC consented to the entry of an order for relief and entry of an order converting the case to one under chapter 11 of the Bankruptcy Code. The Court converted the case effective as of February 1, 2000.

5. RTC remained in possession of its assets and operated its business as a debtor-in-possession in accordance with Sections 1107 and 1108 of the Bankruptcy Code until August 26, 2003.

6. On August 26, 2003, the Office of the United States Trustee appointed Gregg E. Szilagyi (the "Chapter 11 Trustee") as chapter 11 trustee for RTC. The Chapter 11 Trustee thereafter operated the

Estate's business under Section 1108 of the Bankruptcy Code.

7. On September 21, 2005, the Court converted this case to a case under chapter 7 of the Bankruptcy Code. The Chapter 11 Trustee was discharged.

8. On or about September 27, 2005, the Office of the United States Trustee appointed the Trustee as interim Chapter 7 Trustee. When the creditors failed to elect a trustee at the first meeting of creditors on November 4, 2005, the Trustee became the permanent Chapter 7 trustee, pursuant to 11 U.S.C. §702(d). The Trustee continues to operate the Estate's businesses and manage various leased properties, pursuant to §721 of the Bankruptcy Code.

9. On November 8, 2005, the Trustee filed a Motion to extend time to assume or reject certain executory contracts and unexpired leases listed in that motion. The Court granted the motion in part with respect to some leases and contracts, and entered and continued the motion with respect to others.

10. In supplemental motions, the Trustee sought to further extend the time to assume or reject, through and including April 28, 2006.

11. On February 17, 2006, the Trustee filed a Motion for an Order Pursuant to 11 U.S.C. §363 and F.R.B.P. 9019 to (i) Approve Settlement (ii) Authorize the Conveyance and Abandonment of Certain Estate Assets (iii) Approve a Designation Rights Agreement (iv) Authorize the Disbursement of $250,000 to NEC and (v) Approve Shortened Notice (the "Settlement Motion"). The Order approving the settlement was ultimately entered on March 14, 2006.

12. As part of the consideration for the settlement, Chiplease or its designee was authorized to designate certain contracts to be assumed or assigned by the Estate. As the parties explained to this Court, if the Trustee does not believe the Estate can assume or assign a contract designated by Chiplease or its designee, the Trustee will file a motion seeking a hearing on the propriety of the Trustee's decision not to assume or assign.

13. The Trustee received the list of designated contracts from Scattered Corporation, as Chiplease's designee. That list is attached as Exhibit A.

14. Pursuant to the Designation Rights Agreement, the Estate seeks to assume certain of the designated contracts set forth on Exhibit A and assign them to Scattered subject to Court approval of (1) demonstration by the designee of the ability to pay cure costs; (2) demonstration by the designee of adequate assurance of future performance; (3) assumption; and (4) assignment. Those contracts (the "Assumed Contracts") are listed on Exhibit B.

15. Section 365(a) of the Bankruptcy Code provides that the Trustee is authorized, subject to court approval, to assume any executory contract or unexpired lease of the debtor. Section 365 also permits a debtor to assume and assign the executory contract upon a showing of adequate assurance of future performance by an assignee of such contract. See 11 U.S.C. §365(f). Finally, Section 365(b) provides that if there is a default in an executory contract or unexpired lease of the debtor, such default must be promptly cured. Pursuant to the Designation Rights Agreement, the Trustee is seeking to assume and assign the Assumed Contracts to Scattered. However, Scattered shall be fully responsible to (1) demon-

strate adequate assurance of future performance under the Assumed Contracts; and (ii) cure defaults, if any, under any of the Assumed Contracts.

16. The standard applied overwhelmingly by the courts to authorize assumption or rejection of executory contracts is the traditional "business judgment" standard. See *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984); *Lubrizol Enterprises, Inc. v. Richmond Metal Finishers, Inc.* (In re Richmond Metal Finishers, Inc.), 756 F.2d 1043, 1046 (4th Cir. 1985); *JRT. Inc., V. TCBY Systems, Inc.* (Matter of JRT, Inc.), 121 BR. 314, 320 (Bankr. W.D. Mich. 1990); *In re SIS Corp.*, 108 B.R. 608, 610 (Bankr. N.D. Ohio 1989) (the test usually applied to a debtor's decision to assume an executory contract is the business judgment rule). Generally, a chapter 11 debtor has great latitude in assuming or rejecting executory contracts in its sound business judgment. *In re Monarch Tool & Mfg., Co.*, 114 B.R. 134, 137 (Bankr. S.D. Ohio 1990). "This rather extensive power reflects the important consideration that the [debtors] should be able to abandon contracts that impose burdensome liabilities upon the bankruptcy estate, but should also be allowed to retain favorable contracts that benefit that estate. Section 365 thus advances one of the Code's central purposes, the maximization of the value of the bankruptcy estate for the benefit of creditors." *Matter of Midway Airlines, Inc.*, 6 F.3d 492, 494 (7th Cir. 1993) (citing *In re L&S Industries, Inc.*, 122 B.R. 987, 993 (Bankr. N.D. III. 1991), aff'd sub nom.; *Williams v. Stefan*, 133 B.R. 119 (N.D. III. 1991), affd, 989 F.2d 929 (7th Cir. 1993)).

17. The Settlement Order approving the Settlement Agreement and Designation Rights Agreement

specifically states, "The Estate shall not be liable for Cure Costs or for adequate assurance of future performance costs, or any obligations or damages claims under the Contracts, or for any other claims which may arise as a result of the entry into or operation of the Designation Rights Agreement."

18. This motion is being brought pursuant to the Designation Rights Agreement, which is part of the Settlement Agreement.

19. The Estate hereby requests approval of the assumption and assignment of the designated contracts on Exhibit B, subject to Court approval of (1) demonstration by the designee of the ability to pay cure costs; (2) demonstration by the designee of adequate assurance of future performance; (3) assumption; and (4) assignment.

20. Pursuant to Section 2.2 of the Designation Rights Agreement, if an objection to the assumption and assignment is not filed within ten (10) days of the receipt of this motion by any Affected Party, or an objection filed involves a cure issue, the objection will not preclude the assumption and assignment contract, and the assumption and assignment shall be deemed effective and binding (without further order) contingent on the determination of any cure costs by the Court and the satisfaction of such cure costs in accordance with the order of the Court. Notwithstanding the foregoing, any party affected by such assumption and assignment shall be deemed to have consented to the assumption and assignment and to have waived all objections thereto (other than as to cure amounts), if no objection is filed within ten (10) days of receipt of this motion.

21. Pursuant to Section 2.2 of the Designation Rights Agreement, the failure to object to the assumption and assignment proposed herein may result in the entry of an order allowing assumption and assignment of Assumed Contracts without any obligations on the part of Scattered Corporation for adequate assurance of future performance.

WHEREFORE, the Estate of Resource Technology Corporation by and through Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee for the Estate of Resource Technology Corporation, moves this Court for entry of an order setting a hearing for Court approval of (1) demonstration by the designee of the ability to pay cure costs; (2) demonstration by the designee of adequate assurance of future performance; (3) assumption; and (4) assignment, and assign the same to Scattered Corporation and for such other and further relief as the Court deems just.

Dated: April 28, 2006

The Estate of Resource Technology Corporation by and through Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee for the Estate of Resource Technology Corporation

By: /s/ Barry A. Chatz
One of Its Attorneys

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Exhibit A—List of Designated Contracts by Greenblatt Entities

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Bi-State	Agreement	Resource Technology corporation and Noble Earth Corporation	10/27/95
Bi-State	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bi-State	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co. (Allied Waste Industries)	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green	07/01/99

		Gas Delaware Statutory Trust	
Columbus	Agreement	Resource TechnologyCorporation and City of Columbus, GA	08/15/95

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Congress/Hillside	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Congress/Hillside	Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas-To-Electric Plant	Resource Technology Corporation and Congress Development Company	12/02/97
Congress/Hillside	Agreement for Construction and Operation of Gas Collection Facility and Gas-To-Electric Plant	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/Hillside	First Amendment to Amended and Restated Agreement for Construction and Operation of Gas Collection Facility and Gas-To-Electric Plant	Resource Technology Corporation and Congress Development Company	06/30/99
Congress/Hillside	Second	Resource Technology	11/29/96

	Amendment to Agreement for Construction and Operation of Gas Collection Facility and Gas-To-Electric Plant	Corporation and Congress Development Company	
Congress/Hillside	Security Agreement	Resource Technology Corporation and Congress Development Company	11/29/96
Congress/Hillside	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	05/15/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Congress/Hillside	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of Corpus Christi, Texas	11/26/96
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Fort Dodge	Agreement	Resource Technology Corporation and the North Central Iowa Regional Solid Waste Agency	10/28/94
Fort Dodge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Fort Dodge	Landfill Gas Sales Agreement	Resource Technology Corporation and	07/01/99

		Green Gas Delaware Statutory Trust	
Gary	Agreement	Resource Technology Corporation and the City of Gary, Indiana	12/26/96
Gary	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Landfill Gas Sales Agreement	Resource Technology 07/01/99 Corporation and Green Gas Delaware Statutory Trust	
Gary	Gas Sales Agreement	Resource Technology Corporation and Texas	Various Dates

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
		Energy Transfer	
GNOL	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
GNOL	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
GNOL	Agreement	Resource Technology Corporation and Southern Recovery Management Inc.	09/18/96
GNOL	Addendum to Contract Between Resource Technology Corporation and Southern Recovery Management Inc.	Resource Technology Corporation and Southern Recovery Management, Inc.	09/18/96
Kewanee	Kewanee Landfill Deed In Trust	American National Bank and Trust Company of Chicago/National Closure Corporation	03/31/95

Kewanee	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Kewanee	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	04/24/95
Lansing	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lansing	Landfill Gas Sales	Resource Technology Corporation and Green Gas	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
	Agreement	Delaware Statutory Trust	
Lansing	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Litchfield	Agreement	Resource Technology Corporation and Liberty Waste of Ohio (Allied Waste Industries)	12/30/96
Litchfield	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Litchfield	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas	07/01/99

		Delaware Statutory Trust	
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Mobile	Agreement	Resource Technology Corporation and TransAmerican Waste Industries, Inc.	12/23/96
Mobile	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer/Mobile Gas	Various Dates

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Mobile	Landfill Gas SalesAgreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Mobile	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Agreement The City of New Haven and Resource Technology Corporation Pertaining to Landfill Gas-To-Energy Conversion Project	Resource Technology Corporation and The City of New Haven	12/31/96
New Haven	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No	Resource	06/19/97

	1 to Agreement	Technology Corporation and States Land Improvement Corp.	
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
Peoria	First Amendment to Lease	Resource Technology Corporation and City and County of Peoria	06/11/96
Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97
Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Peoria	Fourth Amendment to Lease	Resource Technology Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and CILCO	Various Dates
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Pontiac	Landfill Gas Sales Agreement	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All ApplicableSeries) "	4/10/2002
Pontiac	Agreement	Resource	12/21/95

		Technology Corporation and American Disposal Service, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	
Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	8/1/2004
Pontiac	O&M	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable	4/10/2002

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
		Series)"	
Pontiac	Gas Rights and Collection Facilities Lease	AECC Pontiac LLC	
Pontiac	Gas Sales Agreement	AECC Pontiac LLC	
Pontiac	O&M Agreements	AECC Pontiac LLC	
Pontiac	Gas Rights and Collection Facilities Lease	Red Gas, LLC	
Pontiac	Gas Sales Agreement	Red Gas, LLC	
Pontiac	O&M Agreements	Red Gas, LLC	
Pontiac	Gas Rights and Collection Facilities Lease	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Archimedes Gas & Electric, Inc	
Pontiac	O&M Agreements	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Rights and Collection Facilities Lease	Voltaire Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Voltaire Gas & Electric, Inc.	
Pontiac	O&M Agreements	Voltaire Gas & Electric, Inc.	
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	License	Resource	12/31/96

	Agreement	Technology Corporation and Rosencranse Corporation	

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Sangamon (Springfield)	Agreement	Resource Technology Corporation and ESG Watts, Inc. (Allied Waste Industries)	05/26/95
Sangamon (Springfield)	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Sangamon (Springfield)	Power Purchase Agreement	Resource Technology Corporation and CILCO	Various Dates
Sangamon (Springfield)	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Taylor Ridge	Agreement	Resource Technology Corporation and ESG Watts, Inc.	05/26/95
Taylor Ridge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Taylor Ridge	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware	07/01/99

		Statutory Trust	
Viola	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Agreement	Resource Technology Corporation and ESG Watts, Inc.	08/01/96
Wheatland	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	12/21/95
Wyandot	Landfill Gas SalesAgreemen	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyando	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Service, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	12/21/95
Solar	Services and	Resource	11/17/00

Turbines Incorporated	Maintenance Agreement	Technology Corporation, Network Electric Company and Solar Turbines Incorporated	
Solar Turbines Incorporated	Services and Maintenance Agreement	Resource Technology Corporation, Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
All Sites	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Multi-Site	Multi-Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site	Environmental Monitoring Software Inc.	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource Technology Corporation and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology Corporation and Richard Walker	1997
Multi-Site	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

Exhibit B - Assumed Contracts

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Bi-State	Agreement	Resource Technology corporation and Noble Earth Corporation	10/27/95
Bi-State	Landfill Gas Rights and Collection System ·Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bi-State	Landfill· Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co. (Allied Waste industries)	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01199
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and American Disposal. Services, Inc. including right	12/21/95

		to send notice extending the term of the contract for a period of five years as of the date of assignment	
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07101/99
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Agreement	Resource Technology Corporation and City of Columbus, GA	08/15/95

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of	11/26/96

		Corpus Christi, Texas	
Corpus. Christi	Landfill Gas Rights and Collection System Lease	Rcsource .Technology Corporation and Green Gas Delaware· Statutory Trust	07101/99
Corpus Christi	Landfill Gas Sales Agreement	Resource· Technology Corporation and Green Gas Delaware. Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Rcsource Various Dates Technology Corporation and Texas Energy· Transfer	Various Dates
Fort Dodge	Agreement	Resource Technology Corporation and the North Central·lowa Regional Solid Waste Agency	10/28/94
Fort Dodge	Landfill Gas Rights And Collection System Lease	Resource Technology Corporation and· Green Gas Delaware Statutory Trust	07/01/99
Fort.Dodge	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delawarc Statutory Trust	07101/99
Gary	Agreement	Resource Technology Corporation and the City of Gary, Indiana	12/26/96

Gary	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Gary	Landfill Gas Sales	Resource Technology Corporation and Green Gas	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
	Agreement	Delaware Statutory Trust	
Gary	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
GNOL	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01199
GNOL	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
GNOL	Addendum to Contract Between Resource Technology Corporation and Southern Recovery	Resource Technology Corporation and Southern Recovery Managernent Inc.	09/1.8/96

	Management, Inc.		
Kewanee	Kewanee Landfill Deed In Trust	American National Bank and Trust Company of Chicago/National Closure Corporation	03/31/9-5
Kewanee	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Kewanee	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07101199
Lansing	Agreement	Technology Corporation and John Sexton Contractors Co.	04/24/95
Lansing	Landfill Gas Rights and Collection	Resource Technology Corporation and Green Gas	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
	System Lease	Delaware Statutory Trust	
Lansing	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07i01/99
Lansing	Power Purchase Agreement	Resource Technology Corporation and	Various Dates

Litchfield	Agreement	Commonwealth 'Edison Resource Technology Corporation and Liberty Waste of Ohio (Allied Waste Industries)	12/30/96
Litchfield	Landfill Gas Rights and ,'Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Litchfield	Landfill Gas Sales Agreement	Resource 'Technology Corporation and· Green Gas Delaware Statutory Trust	07/01/99
.Mobile	Agreement	Resource Technology Corporation and TransAmerican Waste Industries, Inc.	12/23/96
Mobile	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer/Mobile Gas	Various Dates
Mobile	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware •Statutory Trust	07/01/99
Mobile	Landfill, Gas 'Rights and Collection System Lease	Resource Technology Corporation and, Green Gas	07/01/99

New' Haven	Agreement The City of New Haven and Resource Technology Corporation Retraining to Landfill Gas-Ta-Energy Conversion Project	Delaware Statutory Trust Resource Technology Corporation and The City of New Haven	12/31/96

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF I DOCUMENT
New Haven	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
New Haven	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement. Corp.	06/19/97
Peoria	Lease	Resource Technology Corporation and City and County. of· Peoria	11/30/95
Peoria	First Amendment to	Resource·Technology Corporation .and ·City and	06/11/96

	Lease	County of· Peoria	
Peoria	Second· Amendment To Lease	Resource Technology Corporation ·and City and County of· Peoria	01130/97
Peoria	Third Amendment to Lease	Resource Technology Corporation>and City and County. of· Peoria	07/01/97
Peoria	Fourth Amendment to Lease·	Resource Technology Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and CILCO ·	Various Dates
Peoria	Landfill Gas Rights I and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Peoria	Landfill Gas Sales Agreen1ent	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Pontiac	Landfill Gas Rights and Collection System ·Lease	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Pontiac	Landfill Gas	Resource	4/10/2002

	Sales Agreement	Technology Corporation and Pontiac Delaware· Statutory Trust (Including Applicable Series)"	
Pontiac	Agreement	Resource Technology Corporation and American Disposal Service, Inc. including right to send notice extending the term of the· contract for· a period of five years as other	
Pontiac	Supplemental Fuel Standby Agreement	Resource. Technology Corporation and NICOR Gas ·Company	8/1/2004
Pontiac	O&M	Resource Technology Corporation and· Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Pontiac	Gas Rights and Collection Facilities Lease	AECC Pontiac LLC	
Pontiac	Gas Sales Agreement	AECC Pontiac LLC	
Pontiac	O&M Agreements	AECC Pontiac LLC	
Pontiac	Gas Rights and Collection	Red Gas, LLC	

	Facilities Lease		
PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Pontiac	Gas Sates Agreement	Red Gas, LLC	
Pontiac	O&M Agreements	Red Gas, LLC	
Pontiac	Gas Rights and Collection Facilities Lease	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Archimedes Gas & Electric, Inc.	
Pontiac	O&M Agreements	Archimedes Gas & Electric, Inc.	
Pontiac	Gas Rights and Collection Facilities Lease	Voltaire Gas & Electric, Inc.	
Pontiac	Gas Sales Agreement	Voltaire Gas &Electric, Inc.	
Pontiac	O&M Agreements	Voltaire Gas & Electric, Inc.	
Sangamon (Springfield)	Agreement	Resource Technology Corporation and ESG Watts, Inc. (Allied Waste Industries)	05/26/95
Sangamon (Springfield)	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Sangamon (Springfield)	Power Purchase Agreement	Resource Technology Corporation and CILCO	Various Dates
Sangamon I- (Springfield)	Landfill Gas Rights and	Resource Technology	07/01/99

	Collection Facility Lease	Corporation and Green Gas	
Taylor Ridge	Agreement	Resource Technology Corporation and ESG Watts, Inc.	05/26/95
Taylor Ridge	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Taylor Ridge	Landfill Gas Sales	Resource Technology Corporation and Green Gas	07/01/99
PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
	Agreement	Delaware Statutory Trust	
Viola	Landfill Gas Rights and Collection System lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Viola	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas .Delaware Statutory Trust	07/01/99
Viola	Agreement	Resource Technology Corporation and ESG Watts, Inc.	08/01/96
Wheatland	Landfill Gas Rights And Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc. including right to send notice extending the term of the contract for a period of five years as of the date of assignment	12/21195
Wyandot	Landfill Gas Sales Agreement	Resource. Technology Corporation and Green Gas Delaware Statutory Trust	07/01199
Wyandot	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Service, Inc. including right to send notice extending the term of the contract for a period of five	12/21/95

		years as of the date of assignment	
PARTY/SITE	TITLE OF DOCUMENT	PARTIES	DATE OF DOCUMENT
Solar Turbines Incorporated	Services and Maintenance Agreement	Resource Technology Corporation Network Electric Company and Solar Turbines Incorporated	11/17/00
Solar Turbines Incorporated	Services and Maintenance Agreement	Resource Technology Corporation, Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01199
All Sites	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
All Sites	O&M Agreement	Resource Technology Corporation and .Green Gas	07/01/99

		Delaware Statutory Trust	
Multi-Site	Multi-Site Environmental Permitting Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site	Environmental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
Multi-Site	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

APPENDIX S

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99 B 35434
Chapter 7 Proceeding

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

Hon. Eugene R. Wedoff
Hearing Date: June 13, 2006
Hearing Time: 10:00 a.m

NOTICE OF MOTION

To: See Attached Service List

Please Be Advised that on June 13, 2006 at 10:00 a.m., the undersigned will appear by counsel before the Honorable Eugene R. Wedoff, or any judge presiding in his stead in Courtroom 744, 219 S. Dearborn St., Chicago, Illinois, and shall then and there present their Motion To Compel the Chapter 7 Trustee to Seek Assumption and Assignment of Certain Contracts, a copy of which is attached hereto.

Respectfully submitted,

Chiplease, Inc. and Scattered Corporation

BY: /s/ Gregory J. Jordan
One of Their Attorneys

Gregory J. Jordan (ARDC #6205510)
Peter J. Schmidt (ARDC #6256638)
Evangelos J. Gegas (ARDC #6269795)
Dykema Gossett PLLC
10 S. Wacker Drive, Suite 2300
Chicago, Illinois 60606
(312) 876-1700
(312) 876-1155 (Telecopier)

CERTIFICATE OF SERVICE

I, Gregory J. Jordan, certify that on May 26, 2006, I served this Notice of Motion and the document referenced herein on the persons listed on the attached service list, by electronically filing the same with the United States Bankruptcy Court and by facsimile on any parties on the attached service list not receiving electronic notice.

/s/ Gregory J. Jordan

SERVICE LIST

Robert M. Fishman Brian L Shaw Shaw Gussis Fishman Glantz Wolfson & Towbin LLC 321 N. Clark Street, Suite 900 Chicago IL 60610 Fax: (312) 275-0571	Kathryn Gleason United States Trustee's Office 227 West Monroe Street, Suite 3350 Chicago IL 60606 Fax: (312) 886-5794
Elizabeth Sharp 330 South Wells St., Suite 711 Chicago IL 60606 Fax Number (312) 341-9596	Gerald F. Munitz Kathryn A. Pamenter Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz 55 Last Monroe Street, Suite 3700 Chicago IL 60603 Fax Number: (312) 332-2196
William J. Barrett Barack, Ferrazzano, Kirschbaum, Perlman & Nagelberg 333 W. Wacker Drive, Suite 2700 Chicago IL 60606 Fax Number (312) 984-3150	Stuart M. Rozen Craig E. Reimer Mayer Brown Row & Maw 71 S. Wacker Drive Chicago IL 60606 Fax Number: (312) 701-7711
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James Newbold Assistant Attorney General 100 West Randolph Street, Suite 1300 Chicago IL 60601 Fax Number: (312) 814-3589	Michael L. Molinaro Neal, Gerber & Eisenberg Two North LaSalle St. Chicago IL 60602 Fax Number: (312) 269-1747

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Eugene J. Geekie, Jr Jon C. Vigano Patricia *J.* Fokuo Schiff Hardin & Waite 233 S. Wacker Drive, Suite 6600 6600 Sears Tower Chicago IL 60606-6473 Fax Number: (312) 258-5600	Steven R. Jakubowski Elizabeth F. Richert Robert F. Coleman & Associates 77 West Wacker Drive, Suite 4800 Chicago IL 60601 Fax Number (312) 444-1028
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99-35434
Chapter 7 Proceeding

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

Hon. Eugene R. Wedoff
Hearing Date: June 13, 2006
Hearing Time: 10:00 a.m

MOTION OF CHIPLEASE, INC. AND SCATTERED CORPORATION TO COMPEL THE CHAPTER 7 TRUSTEE TO SEEK ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS

Chiplease, Inc. and Scattered Corporation (collectively, the "Purchasers"), by and through Gregory J. Jordan and Dykema Gossett PLLC, their counsel, move this Court for entry of an order compelling Jay A. Steinberg, not individually but solely as the Chapter 7 Trustee (the "Trustee") for the Estate of Resource Technology Corporation (the "Estate") to file and prosecute a motion to assume and assign to the Purchasers certain contracts in accordance with the Designation Rights Agreement between the Trustee and the Purchasers. In support of this Motion, the Purchasers respectfully represent as follows:

JURISDICTION

This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a

core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this case in this District is appropriate under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

1. On November 15, 1999, (the "Petition Date"), an involuntary petition for relief under Chapter 7 of the Bankruptcy Code was filed against Resource Technology Corporation (the "Debtor").

2. An order for relief was entered on January 18, 2000, at which time the case was converted to one under Chapter 11.

3. Thereafter, Gregg E. Szilagyi was appointed as the Chapter 11 Trustee.

4. On September 14, 2005, creditors of the Debtor's estate moved to convert the case to Chapter 7. On September 21, 2005, this court entered an order converting this case to Chapter 7.

5. Thereafter, Trustee was appointed as the Interim Chapter 7 Trustee. On November 4, 2005, the § 341 meeting of creditors was held and concluded. Trustee is now the permanent Trustee herein.

6. The Debtor is in the business of collecting and selling methane gas from landfills. As such, the Debtor is a party to numerous landfill agreements.

7. In February 2006, the Estate entered into an agreement with Leon Greenblatt, Banco Panamericano, Chiplease, Inc. and Scattered Corporation (the "Greenblatt Entities") to settle all disputes between the Estate and the Greenblatt Entities and to convey certain assets to the Greenblatt Entities.

8. Part and parcel with the settlement agreement, the parties entered into a Designation Rights Agreement pursuant to which the Purchasers purchased the right to designate executory contracts and unexpired leases of real property for assumption and assignment by the Estate, subject to Court approval.

9. On March 16, 2006, the Court entered an order approving the settlement between the Estate and the Greenblatt Entities, and approving the terms of the Designation Rights Agreement.

10. The Designation Rights Agreement provides, at ¶14, as follows:

> The Purchaser shall not have the right to designate any Contract that has previously been terminated by a final non-appealable Court Order or if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant to the Fed.R.Bank.P. 9011 or allegations of bad faith, but the Purchaser shall have the right to petition the Court to compel the Trustee to comply with the Purchaser's direction to designate.

11. On April 27, 2006, the Purchasers designated certain contracts for the Estate's assumption and assignment to the Purchasers (the "Designated Contracts").

12. On April 28, 2006, the Trustee filed several motions relating to the Designated Contracts:

> *In his Motion of Chapter 7 Trustee to Assume and Assign Certain Executory Contracts Subject to Court Approval of 1) Demonstration by the Designee of the Ability to Pay Cure Costs; 2) Demonstration By the Designee of Adequate*

Assurance of Future Performance; 3) Assumption; and 4) Assignment, the Trustee sought to assume and assign certain of the Designated Contracts.

In his Motion of Chapter 7 Trustee to Assume and Assign Certain Allied Executory Contracts Subject to Court Approval of 1) Demonstration by the Designee of the Ability to Pay Cure Costs; 2) Demonstration By the Designee of Adequate Assurance of Future Performance; 3) Assumption; and 4) Assignment (the "ADS Motion"), the Trustee sought to assume and assign to the Purchasers certain contracts between the Debtor and ADS Industries/Allied Waste, including a gas rights agreement relating to landfills in Pontiac, Illinois, Wheatland, Kansas, Wyandot, Ohio and Clarion, Pennsylvania (the "ADS Agreement").

In his *Motion of Chapter 7 Trustee to Determine Propriety of Assumption and Assignment of Certain Agreements and Extension of Time to Assume or Reject Such Agreements* (the "Disputed Motion"), the Trustee identified a number of the Designated Contracts for which the Trustee was not willing to seek assumption and assignment pursuant to ¶14 of the Designation Rights Agreement, and sought direction from the Court as to the propriety of filing the motions as designated by the Purchasers.

13. Parties to certain of the Designated Contracts filed objections to the relief sought by the Trustee in his various motions.

14. On May 9, 2006, the Court ordered the Trustee to notify the Purchasers in writing, on or before May 12, 2006, which of the Designated Contracts the Trustee chose not to seek to assume and assign

pursuant to ¶14 of the Designation Rights Agreement.

15. On May 12, 2006, the Trustee delivered to the Purchasers a written notification, identifying those contracts he was unwilling to seek to assume and assign, specifically the contracts relating to 1) the Congress/Hillside Landfill, 2) the McCook/Lyons Landfill, 3) the Rosencranse Landfill, 4) the Chastang Landfill, 5) the Columbus Landfill, 6) employees John Connolly and Richard Walker, 7) Network Electric Company, 8) the Peoria Landfill, 9) the Corpus Christi Landfill, 10) the Bloomington Landfill, and 12) the ADS Agreement (collectively, the "Disputed Contracts"). A copy of the Trustee's Notice is attached as Exhibit "A"

16. The Trustee has already filed motions to assume and assign the Corpus Christi, Bloomington, Peoria and ADS contracts and related agreements. No facts changed from the date of his motions that explains this change in position. The Trustee seems to misunderstand the requirements of the Designation Agreement. That agreement does not provide that the Trustee shall file a motion to assume and assign unless someone objects. The Trustee may only refuse in the event that such a motion might lead to sanctions. The Trustee has advised counsel for the Purchasers that the factual basis for the motion has not changed and that he maintains the same position as espoused in his original pleadings, so the reversal of his position can only be evidence of overcaution. The only explanation given by the Trustee for the reversal was that he had reviewed the objections filed by various parties to the contracts. While a Trustee acting cautiously may be valuable in some instances, such caution should not interfere with contractual

obligations. Rule 9011 does not require certainty. It only requires a reasonable inquiry into the facts and the law and a determination that the arguments are not frivolous or for an improper purpose. The Trustee clearly believes his original arguments in support of assumption and assignment pass this standard.

17. In accordance with the Court's order of May 9, 2006, and the terms of the Designation Rights Agreement, the Purchasers hereby seek to compel the Trustee to file a motion to assume and assign to the Purchasers certain of the Disputed Contracts.

18. The Purchasers reassert all of the facts and arguments raised by the Trustee in those motions and incorporate them by this reference. The Trustee's correspondence is unclear with regard to agreements related to the above-referenced sites and his willingness to continue to seek to assume and assign such related agreements. For the purpose of clarity, the Purchasers have attached as Exhibit "B" a list of all contracts including related agreements that the Purchasers seek to compel the Trustee to assume and assign.

The Score of the Motion to Compel

19. Given the various objections raised by parties to the Disputed Contracts, and the heated nature of the disputes at issue, the Purchasers wish to clarify the scope of this motion. The Settlement Order and the Designation Rights Agreement spell out the purpose of this motion. This motion must show that the Trustee acted improperly in refusing to seek assumption and assignment of the Disputed Contracts. It is not the purpose of this motion to set forth all evidence required to allow complete the assump-

tion and assignment process. Under the Designation Rights Agreement, the issue then is 1) have the Disputed Contracts been terminated by a final non-appealable order, and 2) would the Trustee be subject to Rule 9011 sanctions if he filed a motion to assume and assign the Disputed Contracts.

20. This motion does not seek a final determination as to whether the Disputed Contracts have been terminated. It does not seek a ruling on any issues of breaches of the Disputed Contracts, cure costs, or the ability of the Purchasers to pay cure costs or to present evidence of ability for future performance of the Disputed Contracts. The Purchasers believe that those matters are best left for individual hearings, which will require testimony and documentary evidence.

21. This motion is not intended to determine whether the Trustee can assume and assign the Disputed Contracts. Following a ruling by the Court on this motion, the Trustee will file motions to assume and assign those Disputed Contracts which the Court determines the Trustee is obligated to pursue, and the issues of termination (other than by a final non-appealable order) and the remaining objections by the interested parties can be decided. It is probable that discovery will be required, since various issues of fact must be explored, which are not ripe for consideration.

22. At this stage, as required by the Designation Rights Agreement approved by the Court, the only issues are termination by a final non-appealable order and the question of Rule 9011 sanctions.

23. To simplify the battlefield, the Purchasers acknowledge that the Congress/Hillside contract and

the Chastang contract were terminated by final non-appealable orders, and cannot be assumed and assigned by the Trustee. To the extent that the Chastang order is reversed on appeal or if events change with regard to Chastang or Congress/Hillside such that a Rule 60 motion is appropriate, the Purchasers reserve their rights to proceed. The Rosencranse contract was terminated as well, however, the Purchasers seek a reversal of the order allowing the time to expire for assumption and assignment and to compel its assumption and assignment under Rule 60 of the Federal Rules of Civil Procedure made applicable by Rule 9024 of the Federal Rules of Bankruptcy Procedure due to the fraud on this Court made through false statements by Rosencranse's counsel. No other Disputed Contracts have conceivably been terminated by final, non-appealable orders. Therefore, the only issue is the question of sanctionability.

Standards for Imposition of Sanctions under Rule 9011

24. Federal Rule of Bankruptcy Procedure 9011 provides that the signature of an attorney on a filing constitutes a representation "to the best of the attorney's or party's knowledge, information, and belief formed after reasonable inquiry under the circumstances, (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support

or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief."

25. "Under Rule 9011 an attorney is required to make a 'reasonable inquiry' before filing a document. The determination of the reasonableness of an attorney's inquiry necessarily depends upon the circumstances of the particular case." *In the Matter of Excello Press., Incorporated*, 967 F.2d 1109, 1112-13 (7th Cir. 1992).

26. "The party may be sanctioned if it proceeded in bad faith, or it failed to conduct an adequate inquiry into the facts and law before filing the claim." *American Express v. Baker*, 213 B.R. 834, 838 (N.D.ILL. 1997).

The McCook/Lyons Contract

27. On December 27, 1995, the Debtor entered into an Agreement with American Grading Company ("AGC") by which the Debtor was granted the right to develop and install a landfill-gas-to-energy projects at the AGC-owned landfills in Lyons, Illinois (the "AGC Agreement").

28. Under the AGC Agreement, the Debtor was entitled to renew the agreement for a period of five years, by written notification to AGC on or before September 28, 2005.

29. On September 19, 2005, John Connolly, the Debtor's President, delivered a notice to AGC renewing the AGC Agreement. A copy of the notice is attached hereto as Exhibit

30. AGC now claims that Mr. Connolly was not authorized to send the renewal letter, and has filed an objection asserting that argument and threatening to bring sanctions against the Trustee if the Trustee seeks to assume and assign the AGC Agreement.

31. AGC has submitted the affidavit of Gregg Szilagyi, who was the Chapter 11 Trustee for the Estate at the time the renewal notice was sent by Mr. Connolly. Mr. Szilagyi has taken the position that he did not authorize Mr. Connolly to renew the AGC Agreement.

32. According to both documentary evidence predating the letter and Mr. Connolly, Mr.Szilagyi authorized Mr.Connolly to renew the AGC Agreement, both expressly by direct communication, and indirectly by the course of conduct between Mr. Connolly and Mr. Szilagyi.

33. The AGC extension mirrored extension notices that Mr. Connolly sent on the following contracts: Lansing (February 2005); Springfield (April 2005); Taylor Ridge (April 2005); and Columbus (July 2005). In each case, Mr. Connolly sent extension notices with a copy to the Chapter 11 Trustee, Gregg Szilagyi. The Chapter 11 Trustee neither objected by notice to Mr. Connolly nor raised any objection before this Court. Mr. Connolly will testify that he consulted with Mr. Szilagyi and was directed send all extension notices as they came due.

34. In fact, at the same time as Mr. Connolly sent the letter to AGC, the Trustee was required under the June 22, 2005 agreement to protect Banco Panamericano, Inc., Chiplease, Inc. and Leon Greenblatt's collateral. That agreement states: "Fur-

thermore, pending the decision on the Trustee's motion to dismiss the RTC bankruptcy case, Trustee agrees to cease any efforts to settle, compromise, sell or take any other action involving or affecting any of the Lender's collateral and which collateral is comprised of all of RTC's property and all property of RTC's bankruptcy estate." June 22, 2005 Letter Agreement at p. 2, which is attached hereto as Exhibit "1)". The failure to send the notice would adversely affect the collateral. Similarly, the Trustee change of position regarding his authorization of Mr. Connolly regarding the renewal of contracts would adversely affect that collateral.

35. Assuming Mr. Szilagyi was acting in accordance with that agreement, his position in his affidavit is indefensible. The AGC agreement was properly renewed.

The Rosencranse Agreement

36. Prior to the filing of the bankruptcy case, Rosencranse Corporation ("Rosencranse" and the Debtor entered into a license agreement, which *inter alia* granted to the Debtor the right to develop and construct a gas to energy conversion project at Rosencranse's landfill in Wayne County, Pennsylvania.

37. Rosencranse sought and obtained the entry of an order terminating the automatic stay on March 24, 2005. Although Rosencranse asserted that it intended to act to terminate the agreement with the Debtor, it never took action. See, Affidavit of John Connolly attached as Exhibit "E". Despite its failure to terminate the agreement, Rosencranse advised the Trustee that it had done so. Because the Trustee was a successor trustee, he was not aware of the truth;

the Trustee did not contest Rosencranse assertion of termination at a hearing held regarding the extension of contract rights. On January 27, 2006, the Court entered an order by which the Trustee withdrew his request to assume or reject the Rosencranse agreement.

38. Rule 60(b)(3) of the Federal Rules of Civil Procedure, which apply in these proceedings pursuant to Rule 9024 of the Federal Rules of Bankruptcy Procedure provides:

> On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; The motion shall be made within a reasonable time, and not more than one year after the judgment, order, or proceeding was entered or taken.

Fed.R.Civ.P. 60(b)(3).

39. As a part of its investigations regarding this motion, the Purchasers reviewed the factual matters related to the Rosencranse contract and learned that Rosencranse did not provide to the Estate a notice of termination nor did it provide to the Debtor the opportunity to cure the default.

40. The Seventh Circuit Court of Appeals has set clear requirements for a Rule 60 motion:

> "In order to obtain relief under Fed.R.Civ.P. 60(b)(3), the movant must prove that: (1) the party maintained a meritorious claim at trial; and (2) because of the fraud, misrepresentation

> or misconduct of the adverse party; (3) the party was prevented from fully and fairly presenting its case at trial. *Green v. Foley*, 856 F.2d 660, 665 (4th Cir. 1988), cert. denied, 490 U.S. 1031, 109 S.Ct. 1769, 104 L.Ed.2d 204 (1989). In considering these requirements, a court must weigh the competing policy interests of the finality of judgment against fundamental fairness in light of all of the facts. *Square Construction Co. v. Washington Metro. Area Transit Auth.*, 657 F.2d 68, 71 (4th Cir. 1981). A party seeking relief must prove that they are entitled to a new trial by clear and convincing evidence. *Ervin v. Wilkinson*, 701 F.2d 59, 61 (7th Cir. 1983).

Lonsdorf v. Seefeldt, 47 F.3d 893, 897 (7th Cir. 1995).

41. As the *Lonsdorf* Court noted, Fed.R.Civ.P. 60(b)(3) applies to both intentional and unintentional misrepresentations. *Lonsdorf* at 893 (citing *Plattner v. Snick Corp.*, 102 F.R.D. 612, 614 (N.D.Ill. 1984). This court need not determine whether grounds exist for termination, since the purpose of a rule 60 motion is not to determine whether the alleged misrepresentation altered the result of the case. Id. Instead, Rule 60(b)(3) protects the fairness of the proceedings. Id.

42. The Purchasers request that the Court reverse the ruling terminating the right to extend the Rosencranse agreement and require that the Trustee assume and assign the contract to the Purchaser.

The Columbus Georgia Landfill

43. The Trustee has not stated his reason for refusing to assume and assign the Columbus, Georgia gas rights agreement (the "Columbus Agreement"). It is clear that the Court has continued the deadline

for the Trustee to assume or reject the Columbus Agreement, despite the City of Columbus's objections to such extensions. On February 24, 2006, the City of Columbus filed an objection to the Trustee's then-pending motion for extension. The City claimed generally that the Debtor had not fully performed in accordance with the Columbus Agreement. The City also stated admitted that John Connolly, the Debtor's President, sent a letter July 11, 2005 exercising the Debtor's option to renew the Columbus Agreement. The City of Columbus did not claim that the letter was ineffective, but only stated that it had not been determined whether the letter was authorized and effective.

44. The Purchasers assume these objections by the City of Columbus are the basis for the Trustee's refusal to act. However, the City does not set forth specific arguments regarding alleged breaches by the Debtor, to which the Purchasers could respond. Also, any breach by the Debtor is an issue to be taken up on a motion to assume and assign, with regard to cure and future performance. This is not a basis for the Trustee to fear sanctions.

45. John Connolly sent a timely renewal letter to the City of Columbus by certified mail on July 15, 2005. Gregg Szilagyi, the Chapter 11 Trustee, authorized Mr. Connolly to renew the Columbus Agreement. See Connolly Affidavit.. A copy of the Columbus renewal letter, which evidences that the Chapter 11 Trustee received a copy of the letter at the time of renewal, is attached hereto as Exhibit "F".

46. The Trustee has no good faith basis to fear sanctions for filing a motion to assume and assign the Columbus Agreement. This is further evidence that the Trustee, rather than evaluating the merits of any

objection, is simply attempting to wash his hands of any potentially controverted assumption and assignment. The Designation Rights Agreement requires more of the Trustee than that.

The Employment Contracts

47. The Purchasers seek to compel the Trustee to assume and assign the Estate's employment contracts with both Richard Walker and John Connolly. John Connolly and Richard Walker are employees of the Debtor. These individuals have approached the Purchasers and requested that the Purchasers compel the Trustee to assume and assign those agreements. These individuals have valuable knowledge that will assist Purchasers in the operation of the landfill sites under the assigned agreements. Assumption and assignment of the contracts will benefit the individuals due to issues regarding benefits. The Purchasers are willing to take on the employment contracts, and listed them as Designated Contracts. The Purchasers have advised the Trustee that the individuals requested the Purchasers act.

48. The Trustee has advised the Purchasers that the Estate has never sought an extension of time to assume or reject the Employment Contracts, as the Estate did not believe that assumption or assignment of such contracts would benefit the Estate's creditors. Accordingly, the deadline to assume or reject the Employment Contracts has passed. The Estate has never sought an extension of time to assume or reject the Employment Contracts. Nonetheless, Messrs. Walker and Connolly have remained employees and the Estate honored their Employment Contracts. Messrs. Walker and Connolly have requested that the Purchasers seek the assumption and assignment

of their contracts for reasons related to employment benefits.

49. As the Purchasers will bear any liabilities for cure and future performance of the employment contracts, there is no possible detriment to the Trustee, the Estate or its creditors if the contracts are assumed and assigned. The only parties to the contracts have consented. No other party would have standing to object to the assumption and assignment, and notably, no such objection has been raised or asserted in court. Therefore, the Trustee has no good faith basis to fear sanctions for seeking to assume and assign these contracts.

50. The Purchasers request that the Trustee assume and assign those contracts. The Purchasers aver that they will not use the assumption and assignment as a part of the argument as to the assumption and assignment of any contract to which another contracting party asserts was not extended or which otherwise terminated.

The Peoria, Illinois Contract

51. On November 30, 1995, the Debtor entered into a written agreement with the City and County of Peoria whereby the Debtor was granted the right to collect, extract and remove landfill gas and construct and operate certain related systems on a landfill in Peoria, Illinois (the "Peoria Contract").

52. The City and County of Peoria ("Peoria") have objected to the assumption of the Peoria Contract, claiming that the contract expired on its own terms on December 1, 2005. Peoria claims that it never received a notice of extension from the Debtor, the Trustee or any other party. Peoria further claims

that the Debtor is in default of the Peoria Contract relating to maintenance and payment of royalties.

53. Peoria's assertion that the contract expired is false. As noted herein with regard to the Bloomington Contract, this Court entered an order on November 22, 2005, retroactively authorizing the extension of certain gas rights agreements. One of the agreements listed was the Peoria Contract. The Court's order states that the Trustee is authorized "to cause John Connolly, the President of the Debtor, to send a Notice of Extension relating to the following agreements and retroactive to October 29, 2005: . . (i) the agreement "(Peoria Agreement") entered into by the Debtor concerning the facility located at 11501 West Cottonwood Lane, Brimfield, Peoria." The Court expressly gave retroactive authorization to the Trustee to extend the Peoria Contract, by letter from John Connolly.

54. On September 30, 2005, John Connolly sent a Notice of Extension to Peoria, extending the Peoria Contract. A copy of the Notice of Extension is attached hereto as Exhibit "G". See Affidavit of John Connolly. The Trustee notified Mr. Connolly that he accepted and ratified this notice of extension.

55. Peoria also claims, in very general terms, that the Debtor breached its obligations under the Peoria Contract, by failing to pay royalties, maintain the system and comply with environmental rules. Peoria's arguments are irrelevant to this motion. If there exist defaults under the Peoria Contract, those will be dealt with when the Trustee moves for assumption and assignment and questions of cure and future performance are addressed.

The objection raised by Peoria does not justify a good faith belief by the Trustee to fear sanctions for seeking to assume and assign the Peoria Contract.

Corpus Christi, Texas Gas Rights Agreement

56. Another Disputed Contracts is the 1996 Agreement between the Debtor and the City of Corpus Christi (the "City") relating to the construction and operation of a landfill gas collection system and conversion system at the landfill located in Corpus Christi, Texas (the "CC Landfill"). In October 2003, by agreed order the Debtor assumed the gas rights agreement.

57. The Trustee initially included the Corpus Christi gas rights agreement in his motion to assume and assign contracts to the Purchasers. The City filed an objection, claiming that the gas rights agreement had already terminated. Though the City raised no arguments that had not been raised previously and considered by the Trustee, the Trustee responded to the objection by withdrawing his request for assumption and assignment and adding the Corpus Christi agreement to the list of disputed contracts.

58. The City raises no arguments that could render the Trustee's request for assumption and assignment sanctionable. The City claims that the Debtor has operated in breach of the agreement for, *inter alit;* failure to obtain necessary permits, construct and install the Collection System, construct the Conversion System and submit to the City the names of subcontractors for approval. The City also claims that the Debtor has allowed a lapse on more than 90 days in the operation of the Collection System or Conversion System. The former issues are

questions of breach to be decided at a subsequent hearing on a motion to assume and assign. Only the latter issue could constitute a Termination Event under the Agreement.

59. Without addressing in detail each of the City's claims of breach, the issues raised by the City are of its own making. The Debtor obtained the necessary permits for the construction of the Collection System, which is in place and has continuously operated. The Debtor obtained partial permitting for a Class I modification to the collection system, but the City has withheld signature on the revised permit to complete the upgrade. The Debtor, in conjunction with Weaver Boos, the consultant approved by the City, performed work on the application for a Type DC permit for the construction of the Conversion System. The City has unreasonably withheld signature on that application for more than two years. Therefore, the lack of a Conversion System is not due to any failure on the Debtor's part. The Debtor has submitted names of subcontractors to the City, and they have been approved. The City falsely claims that the Debtor was required to enter into a lease for the land for the Conversion System, which is not a requirement under the gas rights agreement.

60. Finally, under ¶5.2 of the Agreed Order by which the agreement was assumed, the City is required to negotiate and mediate any disputed regarding the performance of duties to operate or maintain the gas systems. The City has never attempted such negotiation or mediation.

61. The City is also incorrect that there has been a termination event. The Conversion System was not able to be built, as stated above, so the 90-day lapse issue is not applicable. As for the Collection System,

there has not at any time been a 90-day lapse in the system, as the Debtor has repeatedly advised the City for the past three years.

62. The City claims that the agreement cannot be assigned because of a default judgment entered against the Debtor in Texas state court litigation filed by the City. The Debtor is in the process of having that default judgment vacated, and will present to the Court a motion to appoint special counsel in Texas to handle that matter. Notably, the City, which had no difficulty otherwise serving the Trustee in this case, failed to serve the Trustee with notice of that litigation. The Texas default judgment is not a final, non-appealable order. While the Rooker-Feldman doctrine conceivably could apply to prevent the Court from ordering assumption and assignment, once the default judgment was final and non-appealable, Rule 9011 does not prevent the Trustee from seeking such relief while he is working to have the default order vacated.

63. The City's objection raises no issues that would subject the Trustee to sanctions. There is simply a dispute between the parties, which is primarily factual, and discovery and an evidentiary hearing may be necessary to resolve the issue. If the presence of a factual dispute could give rise to sanctions, no adversarial litigation could occur. The Trustee should be compelled to seek assumption and assignment of the Corpus Christi gas tights agreement.

<u>The Bloomington, Illinois Contract</u>

64. On December 29, 1995, the Debtor entered into a written agreement with John Sexton Contractors Co. whereby the Debtor was granted the right to construct and operate a landfill gas collection system

on a portion of a landfill in Bloomington, Illinois (the "Bloomington Contract").

65. Allied is the purported successor in interest to John Sexton Contractors, Inc. Allied has objected to the assumption of the Bloomington Contract, claiming that the contract expired on its own terms on December 29, 2005. Allied claims that it received a notice of extension of the Bloomington Contract from the Debtor, signed by John Connolly, on October 30, 2005, one day later than it was due under the terms of the contract.

66. Allied fails to mention that this Court entered an order on November 22, 2005, authorizing the Trustee "to cause John Connolly, the President of the Debtor, to send a Notice of Extension relating to the following agreements and retroactive to October 29, 2005: . . . (iii) the agreement entered into between the Debtor and John Sexton Contractors Co. effective December 29, 1995 (the "Bloomington Agreement")." The Court expressly authorized the Trustee to extend the Bloomington Contract, by letter from john Connolly, retroactive to October 29, 2005, which is one day prior to the deadline for extension claimed by Allied. A true and correct copy of the Court's November 22, 2006 order is attached hereto as Exhibit "H".

67. On October 29, 2005, John Connolly, acting at the direction of the Trustee and pursuant to the Court's order, sent a Notice of Extension to Allied, extending the Bloomington Contract. A copy of the Bloomington Notice of Extension is attached hereto as Exhibit "I". See Affidavit of John Connolly.

68. Allied also claims that the Debtor breached its obligations under the Bloomington Contract, by failing to obtain licenses, permits, or contracts or to utilize its best efforts to do so. Allied claims there exist both monetary and non-monetary defaults by the Debtor. Allied's arguments are both incorrect, and irrelevant to this motion. If there exist defaults under the Bloomington Contract, those will be dealt with when the Trustee moves for assumption and assignment and questions of cure and future performance are addressed.

69. Allied's assertions are false. The Debtor did install several landfill gas wells in 1998, pursuant to the Bloomington Contract and under an existing permit. Given the small size of the landfill and the open, active nature of the landfill, the Debtor was prevented from performing further work on the collection system, or installing the conversion system. Therefore, no licenses, permits or contracts were necessary. The Debtor utilized its best efforts to perform under the Bloomington Contract, to the extent it was able to do so.

70. the Purchasers are not aware whether any of the wells installed by the Debtor remain at the landfill. I believe that some of the Debtor's wells were removed by Allied to enable them to deposit more waste at the site. This was done without the Debtor's knowledge or consent.

The ADS Agreement

71. On December 21, 1995, the Debtor entered into an Agreement with American Disposal Services, Inc. ("ADS") by which the Debtor was granted the right to develop and install landfill-gas-to-energy projects at various Allied Waste Industries, Inc. ("Allied") owned

landfills in 1) Pontiac, Illinois, 2) Clarion, Pennsylvania, 3) Wheatland, Kansas and 4) Wyandot, Ohio (the "ADS Agreement").

72. On or about November 8, 2005, the Estate filed its Motion to Extend Time to Assume or Reject Executory Contracts and Unexpired Leases of Non-Residential Real Property (the "First Motion") seeking, *inter alia,* the extension of time to assume or reject the ADS Agreement as well as an extension of the December 21, 2005 deadline to renew the ADS Agreement (the "Extension Date").

73. On November 17, 2005, the Court entered an order granting the relief sought in the November 8, 2005 motion and extending the hearing with regard to certain facilities to November 29, 2005.

74. On November 29, 2005, as memorialized by an order entered November 30, 2005, the Estate and Allied Waste Industries, Inc., the successor in interest to ADS ("Allied") entered an agreed order titled "Agreed Order Extending the Deadline for the Trustee to Assume or Reject Executory Contracts and Unexpired Leases with American Disposal Services, Inc. and Allied Waste Industries, Inc." (the "Agreed Order") by which the Estate and Allied extended the Extension Date to January 31, 2006.

75. On January 18, 2006, the Estate filed its Fourth Motion of Chapter 7 Trustee for an Order to Extend Time to Assume or Reject Certain Executory Contracts and Unexpired Leases of Nonresidential Real Property (the "Fourth Motion").

76. On January 27, 2006, the Court entered an order granting the Fourth Motion, extending the Estate's time to assume or reject to February 28, 2006.

77. On February 21, 2006, the Estate filed its Fifth Motion to Extend Time to Assume or Reject (the "Fifth Motion"), similar to the Fourth Motion. The Court continued this motion to March 16, 2006 for further hearing.

78. On March 16, 2006, this Court entered the Order Approving Settlement Between the Estate of Resource Technology Corporation and the Greenblatt Entities and Granting Further Relief (the "Settlement Order") and extending the date for the purchaser to act under the various contracts to which the Estate is a party to April 28, 2006. The Court also entered its Order Further Extending Time for Trustee to Assume or Reject Executory Contracts and Unexpired Leases of Non-Residential Property on March 16, 2006, and thereby extended the period of time during which the Trustee could assume or reject to executory contracts and unexpired leases of non-residential property to April 28, 2006.

79. As part of the Settlement, the Estate agreed ". . . .the estate shall either convey designation rights to Executory Contract (if any), assign nonexecutory contracts (if any) with the assignee having the right and opportunity to cure any defaults and provide adequate assurance of future performance. . . . ."

80. On March 30, 2006, the Estate received a letter from counsel to Allied relating to the ADS Agreement. In the letter, Allied states its belief that the ADS Agreement expired on its own terms on December 21, 2005. Allied claims that the Estate was required to provide Allied with written notice by registered mail of the Estate's intent to extend the ADS Agreement by November 21, 2005.

81. Allied's letter is not an accurate statement of the facts and circumstances surrounding the ADS Agreement. Pursuant to Order of Court dated January 18, 2002, Resource Technology Corporation, as the debtor in possession, assumed the Pontiac portion of the very same ADS Agreement that is at issue. The assumption was still in effect at the time the Estate sought and received numerous extensions of time relating to this and other agreements. Based on the current status of the agreement, the Estate's initial and all subsequent requests for additional time was to obtain additional time to analyze the agreements to determine if a five (5) year extension served the best interests of the Estate. It is not reasonable to expect the Estate to determine the merits of a five year contractual obligations without a thorough investigation. The initial motion specifically referred to the time to extend the agreement.

82. The November 17, 2005 order, which granted the First Motion coupled with the Agreed Order extended the Extension Date for the ADS Agreement. The reference to the Extension Date in the November 17, 2005 order and the Agreed Order evidences that the parties intended to extend the Extension Date. Since the ADS Agreement as to the Pontiac facility was previously assumed, the extension of the contract rights could only be interpreted to extend the Extension Date and thereby the renewal rights. The entry of this and other subsequent orders, without a direct reference to the Extension Date, is a waiver of that requirement. Allied first raised the argument that the Court's orders extending the time periods within which the Trustee had to act did not extend the Extension Date with regard to the ADS Agreement after the Court approved the Settlement Agreement. Prior to that date, as to the Pontiac

Facility, Allied's objections related to the existence of defaults and the termination of the agreement based on these defaults. Allied did not mention an issue with regard to the renewal date.

83. As set forth above, Allied has waived enforcement of the Extension Date prior to April 28, 2006 and should be estopped by their actions from raising this argument. The Trustee's intent in filing the November 8, 2005 motion was to extend not only the assumption/rejection rights, but also to extend the renewal deadline under the ADS Agreement that would expire within two weeks of the date the motion was filed. As the newly-appointed chapter 7 trustee for this extremely complex case, the Trustee had not had time to determine whether the ADS Agreement should be extended, and was not about to renew a contract for five years without fully evaluating the case and the contracts. The Estate intended and understood that the Agreed Order and the various orders extending the Extension Date and the Estate's rights to exercise its renewal rights. Allied's failure to raise the issue or otherwise enforce its rights makes the Estate's reliance on the Court's Orders including the Agreed Order reasonable. By extending the Estate's rights, the Trustee acted prudently in taking sufficient time to evaluate the case and the contracts, rather than make a hurried decision regarding renewal to the detriment of the Estate's Chapter 7 creditors. The Agreed Order evidences that ADS and the Estate extended the renewal deadline by agreement. By consenting to the extension of the assumption/rejection deadline past the December 21, 2005 termination date, as first obtained through the order dated November 17, 2005 and extended from time to time by subsequent orders, Allied could only be reinstating and consent-

ing to the extension of the renewal rights. *See M.K. Laboratories, Inc. v. International Developers* (*In re M.K. Laboratories, Inc*), 86 B.R. 12 (Bankr.D.Conn. 1988).

84. The only reasonable interpretation of the extension of time by the November 17, 2005 order and the Agreed Order is that it extended the renewal deadline under the ADS Agreement, and the that the Trustee was given additional time to evaluate the case and the contracts, rather than make a hurried decision regarding renewal.

85. The Court has entered orders extending the time to assume or reject the ADS Agreement and others, thereby maintaining the status quo with regard to such contracts. While the Court noted in entering such orders it was not foreclosing parties from asserting a contract was terminated, the Court by granting the relief requested by the Estate maintained the status quo as to the Estate's rights. Therefore, the Estate's right to renew, as extended by the November 17, 2005 order and the Agreed Order, has been continued through later orders entered by this Court, has been continued and is still in existence. At the time of the first extension, the contact was not terminated and the Estate had not reached the Extension Date.

86. Allied has also claimed that the ADS Agreement, as it relates to the Wheatland, Wyandot and Clarion facilities, was terminated prior to the filing of this bankruptcy case. In March 1999, ADS sent a letter to the Debtor, claiming that the Debtor had breached the ADS Agreement, and purporting to terminate the contract as to those three landfill sites.

87. The ADS termination letter was sent without any basis under the terms of the agreement between the parties. The Debtor had fully complied with its obligations under the agreement up to the receipt of the termination notice. Thereafter, ADS prevented the Debtor from entering on the landfill sites, and thereby prevented the Debtor from completing the projects within the time frame called for under the ADS Agreement. The termination notice was therefore ineffective.

Ottawa Contract

88. The Trustee attached to his May 12 letter correspondence received from counsel for States Land Improvement, Inc., which asserts that the contract between the Debtor and States Land Improvement, Inc. has been "terminated in 1999 as a result of RTC's bankruptcy per Paragraph 4(c)(ii) and (iii) of that agreement." Paragraph 4 of that agreement states in pertinent part:

4. Term.

(c) the term "Termination Event" as used herein shall mean:

(i) the Termination Events identified I Paragraphs 5 and 6 of this Agreement;

(ii) If Contractor commences a voluntary case as a debtor concerning Contractor under the United States Bankruptcy Code (the "Code");

(iii) If an involuntary case is filed against Contractor under the Code and (A) relief is ordered against Contractor or (B) the petition is controverted but is not dismissed within 30 days after the commencement of the case; . . .

89. The Seventh Circuit Court of Appeals has stated that § 365(e) "invalidates ipso facto or bankruptcy termination clauses which permit one contracting party to terminate or even modify an executory contract in the event of the bankruptcy of the other contracting party." *Lyons Savings & Loan Association v. Westside Bancorporation, Inc.*, 828 F.2d 387, 393 n. 6 (7th Cir. 1987) (citation omitted); See Collier on Bankruptcy -1 365.06 15th Edition Revised. "For the trustee or debtor in possession can affirm the contract even if it contains a clause (a so-called "ipso facto" clause) that makes filing for bankruptcy a ground for termination." *Central States. Southeast and Southwest Areas Pension Fund v. Basic,* 252 F.3d 911, 917 (7th Cir. 2001); (citing § 365(e)(l)(B). The Debtor affirmed its obligations at the Ottawa site by continuing to perform under the contract throughout its bankruptcy case. "Affirmance is the opposite of repudiation, and the affirmance option thus makes it impossible to consider the declaration of bankruptcy itself, whether or not there is an ipso facto clause, a repudiation of a creditor's claim." Id.

Agreements with Solar Turbines, Inc.

90. Solar Turbines, Inc. has filed an objection to the assumption and assignment of any contracts between it and the Debtor. Though the Trustee did not identify the Solar contracts as Disputed Contracts, there are contracts with Solar relating to certain of the landfill gas rights agreements identified as Disputed Contracts, and so the Purchasers will address Solar's objection.

91. Solar objects to the assumption and assignment of its contracts for the Beecher and Congress landfills. The Purchasers did not designate any

Beecher contracts, and are not seeking assumption or assignment of the Solar contract at Beecher.

92. Similarly, the Purchasers are not seeking assumption and assignment of the gas rights agreement at the Congress landfill, and the Purchasers have no interest in the Solar contract for that facility.

93. Solar objects to assumption and assignment of the contract for the Pontiac landfill, and incorporates the arguments of Allied. Purchasers addressed the Allied arguments above. Solar further argues that if the ADS Agreement is not assumed and assigned, the Solar contract cannot be assumed and assigned, on the theory that if the ADS Agreement is not assumed and assigned, it would not have the permission of Allied to be present at the facility. That is not a basis for denying the right to seek assumption and assignment. If the Solar contract at Pontiac is assumed and assigned, it is possible that a new arrangement could be worked out with Allied, or that the machines could be moved to another site where Solar would continue to provide servicing. Finally, Solar claims that its contract for the Pontiac site expired on its own terms. The Purchasers do not dispute that fact. The contract with Solar is now running on a month-to-month basis, and the Purchasers seek assumption and assignment of the contract as is.

May 26, 2006

CHIPLEASE, INC. AND SCATTERED CORPORATION

By: /s/ Gregory J. Jordan
One of Their Attorneys

Gregory J. Jordan (ARDC #6205510)
Peter J. Schmidt (ARDC #6256638)
Evangelos J. Gegas (ARDC #6269795)
Dykema Gossett PLLC
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Barry A. Chatz
(312) 876-6670
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May 12, 2006

Gregory J. Jordan, Esq.
Dykema Gossett PLLC
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606
Via E-Mail

Re: Resource Technology Corporation

Dear Greg:

As you know, pursuant to Section 2.1(h) of the Designation Rights Agreement, "The Purchaser shall not have the right to designate any Contract that has previously been terminated by a final non-appealable Court Order or if the Seller believes in good faith that a particular designation will result in the Seller being subject allegations of bad faith, but the Purchaser shall have the right to petition the Court to compel the Seller to comply with the Purchaser's direction to designate."

The Estate has declined to designate the following lease/contracts:

DATE	MOTIONS	CONTRACTS/LEASES
April 28, 2006	Motion to Determine Propriety of Assumption and Assignment of Certain Agreements and Extension of Time to Assume or Reject Such Agreements	1. Congress/Hillside Landfill 2. McCook/Lyons Landfill 3. Rosencranse Landfill 4. Employment contracts between the Debtor and John Connolly and the Debtor and Richard Walker
May 5, 2006	Amended Motion of Chapter 7 Trustee to Determine Propriety of Assumption and Assignment of Certain Agreements and Extension of Time to Assume or Reject Such Agreements	1. Congress/Hillside Landfill 2. McCook/Lyons Landfill 3. Rosencranse Landfill 4. Employment contracts between the Debtor and John Connally and the Debtor and Richard Walker 5. Chastang Landfill 6. Columbus, George Landfill 7. Contracts relating to Network Electric Co.

In addition to the leases and contracts contained in the above two motions, since these filings the Trustee has received numerous objections from various parties as to the propriety of designation. After reviewing those objections and the issues they raise, particularly as to whether various contracts have terminated, please be advised that the Trustee hereby puts the Purchaser on notice that it needs to petition the Court to compel the Trustee to comply with the Purchaser's direction to designate contracts relating to the Pontiac, Illinois landfill, contracts relating to the Clarion, Pennsylvania landfill, contracts relating to the Wheatland, Kansas landfill, contracts relating to the Wyandot Ohio landfill, and

contracts relating to the Bloomington, Illinois landfill, City and County of Peoria, Illinois landfill and the City of Corpus Christi, Texas landfill.

Finally, the Trustee has received the attached correspondence relating to the Ottawa, Illinois landfill. In light of the content of that correspondence, the Trustee hereby puts the Purchaser on notice that it needs to petition the Court to compel the Trustee to comply with the Purchaser's direction to designate contracts relating to the Ottawa, Illinois landfill as well.

Very truly yours

_____/s/_____
Barry A. Chatz

BAC:jbm
enclosure

Pursuant to Internal Revenue Service guidance, be advised that any federal tax advice in this communication, including any attachments or enclosures, was not intended or written to be used, and it cannot be used, by any person or entity for the purpose of avoiding penalties imposed under the Internal Revenue Code.

cc Arlene Gelman
Joseph Cohen
Eugene Geekie
Joseph Kincaid
Tom Comella
Jay Steinberg, Trustee
Louis Bernstein
Gerald Munitz
Michael W. Fuller
Sara Lorber
Kathryn Gleason

HUPP, LANUTI, IRION & BURTON, P.C.

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GEORGE C. HUPP
JOSEPH E. LANUTI
RICHARD L. BURTON
MICHAEL W. FULLER
GEORGE C. HUPP, SR.
OF COUNSEL

May 5, 2006

John Connolly, President
Resource Technology Corporation
States Land Improvement Corp., Inc.
P.O. Box 520

Ottawa, IL 61350
RE: Case 99-B-3543
"Ottawa Landfill"
"Resource Technology Corp. (RTC) and
States land Improvement Corp., Inc."

Dear Mr. Connolly:

In response to your correspondence of April 28, 2006, a copy of which is attached hereto, enclosed please find a copy of our correspondence of November 15, 2005 regarding the topic of your letter.

As indicated the agreement for which you reference terminated in 1999. Additionally, it is necessary that we know whether or not RTC has previously claimed

the IRS Section 29 "Alternative Fuels Tax" or not. Please provide said information forthwith.

If you have any questions, comments or concerns please contact attorney George C. Hupp, Jr., or myself.

Very truly yours,

_____/s/_____
Michael W. Fuller
Enclosures

c.c. Mark Dykema
Jay Stenberg
Joy E. Levy

Resource Technology Corporation
330 South Wells, Suite 711
Chicago, IL 60606
312-3414059 – Telephone
312-341-9596 - Fax

April 28, 2006

NOTICE OF EXTENSION

Via Certified Mail –
Return Receipt Requested

Mark Dykema
States Land Improvement Corp., Inc.
P.O. Box 520
Ottawa, IL 61350

Re: Ottawa Landfill
Resource Technology Corp. ("RTC")
and States Land Improvement
Corp., Inc.

Dear Mr. Dykema:

Pursuant to the RTC Settlement Order dated March 18, 2006 (the "Order"), Scattered Corporation has designated the above referenced contracts for assumption and assignment consistent with the Designation Rights Agreement as approved by the Order. A Court Hearing will be scheduled to determine the ability to assume and assign and the amount of cure costs, if any, and adequate assurance of future performance by the assignee. The above contracts require a notice concerning the extension of the various contracts. As a result of previous Court Orders extending the time to assume or reject executory contracts and unexpired leased and to extend the time to give any notices required by said contracts or leases, in the event the Court approves the

assumption and assignment, this letter is to serve as notice of the extension of the contracts until April 27, 2012. If the Court does not approve an assumption and assignment, the contracts will be deemed rejected and no extension will be operative.

I am providing this notice in my capacity as President of Resource Technology Corporation and in conformance with the terms of that certain contract entitled "Agreement" and dated April 27, 1997 between RTC and States

Land Improvement Corp., Inc. ("the Agreement") and various orders entered in the bankruptcy case filed as In re Resource Technology Corporation , Case No. 99-35434 pending in the United States Bankruptcy Court for the Northern District of Illinois.

Resource Technology Corporation notifies you, in accordance with the terms of the Agreement, and pursuant to the above-referenced Settlement Agreement, Designation Rights Agreement and directions that, in the event the Court - approves the assumption and assignment of the contracts, Resource Technology Corporation renews and extends the Agreement for an additional five (5) years from the original ten (10) year term. Accordingly, the Agreement shall be continued to April 27, 2012. As stated previously, in the event the Court does not approve the assumption and assignment, the contracts will be deemed rejected and no extension will be operative.

This letter shall be attached to the Agreement and made a part thereof.

_____/s/_____
John Connolly, President
Resource Technology Corporation

HUPP, LANUTI, RION & BURTON, P.C.

ATTORNEYS AT LAW
227 WEST MADISON STREET
OTTAWA. ILLINOIS 61350

GEORGE C. HUPP, JR.
RICHARD L BURTON
MICHAEL W.FULLER
GEORGE C. HUPP, SR.
E-MAIL hupplaw@ theramp.net
OF COUNSEL
JOSEPH E. LANUTI
November 15, 2005

Jay Steinberg
c/o Joy E. Levy

VIA FAX 312-876-0288

RE: Resource Technology Corporation
Case No. 99-B 35434

Dear Mr. Steinberg:

We represent States Land Improvement, Inc.

The purpose of this letter is to advise you that our client need not receive pleadings in the above referenced matter relative to the Agreement dated April 15, 1997, between our client and RTC, since that agreement terminated in 1999 as result of RTC's bankruptcy per Paragraph 4c(ii) and (iii) of that agreement. As a result of that termination, RTC has no claim to any of the gas in our client's closed landfill.

Sincerely

/s/ George Hupp, Jr.

AGREEMENTS THAT THE PURCHASERS SEEK TO COMPEL THE TRUSTEE TO DESIGNATE

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Agreement	Resources Technology Corporation and City of Columbus, GA	08/15/95
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resources Technology Corporation and City of Corpus Christi	11/26/96
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates

Lyons	Lease	Resource Technology Corporation ("RTC") and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights	Resource Technology and Collection Corporation and Facility Lease Green Gas Delaware	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
		Statutory Trust	
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement Corp.	06/19/97
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
Peoria	First Amendment to Lease	Resource Technology Corporation and City and County of Peoria	06/11/96
Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97

Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97
Peoria	Fourth Amendment to	Resource Technology Lease Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Pontiac	Landfill Gas Sales Agreement	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Pontiac	Agreement	Resource Technology Corporation and American Disposal Service, Inc.	12/21/95

Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	8/1/2004
Pontiac	O&M	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)"	4/10/2002
Rosencranse	Landfill Gas Rights and Collection	Resource Technology Corporation and Green Gas Delaware	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
	System Lease	Statutory Trust	
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	License Agreement	Resource Technology Corporation and Rosencranse Corporation	12/31/96
Wyandot	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Service	12/21/95
Wheatland	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware	07/01/99

		Statutory Trust	
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Solar Turbines Incorporated (as to above)	Services and Maintenance Agreement	Resource Technology Corporation, Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites (as to above)	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites (as to above)	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites (as to above)	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
All Sites (as to above)	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

Multi-Site (as to above)	Multi -Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site (as to above)	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site (as to above)	Environmental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource Technology Corporation and John Connolly	12/95

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Richard Walker	Employment Contract	Resource Technology Corporation and Richard Walker	1997
Multi-Site (as to above)	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

Resource Technology Corporation

330 South Weils Street, Suite 711
Chicago, Illinois 6060:0.
312-341-4059
312-341-9596 - Fax:

September 19, 2005

NOTICE OF EXTENSION

Via Certified Mail – 70030500000135616214

Return Receipt Requested

American Grading Company
PO Box 253
Lyons, IL 60534

Re: American Grading Landfill Agreement between Resource Technology Corp. ("RTC) and American Grading Company

Gentlemen:

Reference is hereby made to that certain Agreement dated December 27, 1995 between RTC and American Grading Company ("the Agreement"). We hereby notify you, in accordance with the terms of the Agreement, of RTC's intention to extend the Agreement for five (5) years from the expiration date of the Agreement, December 27, 2005. Accordingly, the Agreement shall be continued to December 27, 2010,

This letter shall be attchaed to the Agreement made a part thereof.

_____/s/_____
JOHN E. CONNOLLY
President
Resource Technology Corporation

BM&W
BLOCK
MARKUS &
WILLIAMS LLC
Attorneys at Law

James T. Markus
(303) 866-0102
jmarkus@bmwllc.com

Offices in:
Colorado
Wyoming

June 22, 2005

VIA E-MAIL

Gregg E. Szilagyi
Ungaretti & Harris
3500 Three First National Plaza
Chicago, IL 60602

Re: In re Resource Technology Corp, Case No. 99-b-35434 BMW No, 10677.002

Dear Gregg:

This letter will set forth the terms of an understanding which has recently been reached between you as the chapter 11 trustee for the bankruptcy estate of the Resource Technology Corporation ("RTC") and Banco Panamericano, Chiplease, Inc. and Leon Greenblatt (the "Lenders").

In exchange for your agreement, to file and pursue through conclusion a motion to dismiss the RTC bankruptcy case, the Lenders have agreed to do the following:

1. The Lenders will advance to the trustee sums to pay the administrative expense claims owing by RTC to the claimants identified on Exhibit A hereto and m the amounts set forth on such Exhibit A. Trustee agrees that such stuns will be treated first as an advance on account of the post-

petition financing agreement to the extent there is availability thereunder and next such sums shall be treated as an allowed post-petition claim pursuant to 11 U.S.C. §364(a).

2. The Lenders will assume by agreement and be responsible for all of RTC's liabilities owing to the parties on Exhibit B except for disputed claims, which will be paid upon a final disposition of such claims.

3. In full satisfaction of and release from any and all claims for Trustee's attorneys' fees and Trustee's fees arising under 11 U.S.C. § 506(e) against the Lenders (individually and collectively), upon execution of this agreement, the Lenders shall pay to the Trustee the sum of $2,000,000 (the "506(c) Settlement"). Of the 506(c) Settlement, the Trustee shall be permitted to disburse immediately up to $1,000,000 to Ungaretti & Harris LLP ("U&H) for professional fees, as permitted under certain administrative fee payment orders entered in the RTC bankruptcy case. The remaining $1,000,000 will be payable in the form of a cashier's check in the amount of $500,000 and in the form of a letter of credit in the amount of $500,000 (the "Letter of Credit") identifying U&H as the beneficiary, which Letter of Credit may be drawn upon joint direction or upon the effective date of a dismissal of the RTC case, The $500,000 and the Letter of Credit shall be held in a segregated account by the Trustee, to be disbursed to U&H upon the effective date of an order of dismissal, and all required orders approving U&H's fees and expenses and Trustee's fees. In the event the case is not dismissed, pursuant to the Trustee's motion or any amended or subsequently filed motion or

otherwise, then the funds and the Letter of Credit held in the segregated account shall be returned by the Trustee to the Lenders, except that if the RTC bankruptcy case is not dismissed as a result of an objection raised by any party listed on Exhibit 13, no funds shall be returned to Lenders. If the RTC bankruptcy ease is not dismissed or any dismissal order entered by the bankruptcy court is reversed on appeal, then the Trustee agrees that he shall not he entitled to any further payments for professional fees or Trustee's fees from the RTC estate until and unless the sums advanced by the Lenders pursuant to this agreement are repaid to the Lenders by RTC in full. The Lenders agree that they will not, nor will they cause any other party or person to object to the allowance or payment of Trustee's fees or U&H's fees in the RTC bankruptcy case. As security for the Lenders' obligations to pay the 506(c) Settlement, the Lenders agree to a carve-out and subordination of their security interests in their RTC collateral, including cash collateral, in favor of U&H, in the amount of which carve-out and subordination shall the deemed terminated upon payment in full of the 506(c) Settlement by Lenders.

4. As part of the Trustee's motion to dismis', the RTC bankruptcy case, Trustee agrees to seek dismissal of the proceeding initiated against the Lenders, Adversary Proceeding No. 044068; *provided however,* that Lenders agree that the preliminary injunction entered in that case shall remain in effect pending the resolution of the motion to dismiss. Furthermore, pending the decision on the Trustee's motion to dismiss the RTC bankruptcy case, Trustee agrees to cease any efforts to settle, compromise, sell or take any other

action involving or affecting any of the Lenders' collateral and which collateral is comprised of all RTC's property and all property of RTC's bankruptcy estate.

5. Lenders agree to provide all manpower, resources and assistance necessary to assist the Trustee in completing all remaining monthly operating reports and to advance or consent to use cash collateral sums necessary for the Trustee to pay any unpaid United States Trustee fees required for dismissal.

6. Trustee agrees to timely file a notice of appeal with respect to appeal order entered in Adversary No. 00A00150 entitled *RTC v. Connecticut Resources Recovery Authority* dated June 16, 2005.

Thank you for your attention to these matters and your efforts in getting the RTC matter brought to conclusion. If you have any questions or comments, please contact me.

Sincerely,

_____/s/_____
BLOCK MARKUS & WILLIAMS LLC
James T. Markus

JTM:cdw

cc: Leon Greenblatt

Agreed To Acknowledged By:
_____/s/_____
Gregg E. Szukagyi

BEST AVAILABLE COPY

Schedule A

EIS Admin Fee/Cost Per Pounds	Supplier Totals (Does not include supplier reimbursements TOTAL supplier payable)
Advanced Synthetic Technology Inc	$432.00
Air and Waste Management Assoc	$271.00
Alex Hoagie & Assoc.	$10,480.00
Allied Electronics Company	$1,539.75
AMEREN CILCO	$2,000.00
American Grinding Co	$350.00
Anderson Electric	
Anderson Electric Co.	
Anderson Electric Company	
Anderson Electric, Inc.	$2,180.68
API Environmental, Inc.	$16,837.50
AT&T	
AT&T	
AT&T	
AT&T	$292.84
Bagby & Russell Electric Co.	$53,179.71
Brian Lee Hamerman	$1,500.00
BRYANT CAVE LLP	$1,821.00
C & M Pipe & Supply Co. Inc.	
C & M Pipe & Supply Co., Inc.	
C & M Pipe & Supply Co., Inc.	
C&M Pipe & Supply Co	
C&M PIPE SUPPLY CO	$22,498.53
Capitol Waste Systems	$383.03
Carbon Environmental	$20,193.66
Cerelia Factory	
Cerelia Trucking, Inc.	
Cerelia Trucking, Inc.	$11,884.00
CGH, Inc.	$61.35
Charles E. York	$5,348.80
Chase Automotive Finance	$707.89
CITY OF PEKIN	$14,274.80
Coffee Unlimited	$167.08
Congress Development Corporation	$108,759.48
Cook County Dept of Environmen	$24.00
CT Corporation System	$891.00
Culligan Water Conditioning	$38.92
D. Fennell Construction Inc.	$28,859.50
Daniels Excavating, Inc.	$8,883.53
Diamond Vogel Products	$3,592.02
Earth Solutions, Inc.	$13,818.25
Eco-Clean Industries	$391.00
Elizabeth D. Sharp	$878.41
Enforcia, Inc.	$1,200.00
Envio Chicherseff	$10,168.67
Esposito & Associates	$561.15
Evans & Son Electrical Inc.	$10,000.00
First Electric Motor Shop, Inc	$759.53
First Insurance Funding Corp.	$1,200.30
First National Bank	$2,229.66
Floyd Steel Erectors, Inc.	$960.00
Floyd Steel Erectors, Inc.	$2,766.98
Gooding Rubber Company	$198.32
Hamilton Dental	$450.00
Hydraulic Crane Specialists	
IEPA	
IL Environmental Protection Ag	
IL-EPA Permits	
Illinois EPA	$6,147.00
Illinois Department of Revenue	$15,000.00
Integrity Transportation Co	$1,010.68
J B Lee Transportation Co	
J.B. Lee Transportation Co	$2,469.00
John Connelly	$21,310.78
Kar Products	$817.81
KB Gaskins	$1,146.00
Kent's Water Systems, Inc.	$40.07
Kevin Kramer	$4,111.98
KEYT BROTHERS, INC	
Klein Brothers, Inc.	$10,707.80
L&M Waste Systems, Inc.	$338.89
Long Telecom LTD.	$7,445.96
MCB Water Authority Inc.	$481.00
Metalworking Lubricants Co.	$13.75
Midstate Auto Electric	$83.67
Mitch Wiseman	$3,210.00
Nancy D Ilse	$6,018.85
Nelson Oil Co., Inc.	$4,314.38
New Paradigm Resources	$3,814.52
Nextel Communications	$1,688.45
Norcentral Public Safety Communi	$401.00
Opperman Construction Co.	$850.00
PCL Inc.	$10,494.07
Peter Wentz	$6,210.00
Phillip Weeks	$3,813.72
Praxair/Gas Tech	$88.43
Purkey Sunbys Water	$67.42
QED Environmental Systems	$300.00
Quicksilver Messenger Service	$148.50
R.W. Beck	$5,173.82
Reedy Environmental	$391.50
Rebecca Broder	$2,443.91
Richard Walker	$8,418.81
Ritchie Excavating Co.	
Ritchie Excavating Co.	$10,010.95
RS USED OIL SERVICES	
RS Used Oil Services Inc	
RS Used Oil Services, Inc.	
RS Used Oil Services, Inc.	
RS Used Oil Services, Inc.	
RS Used Oil Services, Inc.	$13,721.60
SBC Illinois	
SBC Ameritech	$264.71
Secretary of State, Illinois	
Secretary of State-IL-Vehicles	$150.00
Seco Industries, Inc.	$13,941.73
Service Sanitation, Inc	$1,000.38
Solar Turbines Inc.	$169,650.00
SONIA A. LEVOY	$2,387.00
Springfield Battery Co.	$450.00
Superior Petroleum Products	
Superior Petroleum Products	
Superior Petroleum Products	$804.70
SWANA	$1,000.00
T C Construction Inc.	$42,000.00
Terry Hollyby	$477.70
The Hadish Group	
The Hadish Group	
The Hadish Group	$1,182.76
Thomas & Pickett LLC	$347.00
TLC Contracting Inc.	$8,253.84
Trinity Consultants	$14,450.89
Unknown	$10.68
United Parcel Service	$3,310.85
Virginia Hair	$380.93
Village of Lansing	$7,879.40
Total	$881,894.32

Schedule B

Shaw Gussis Domanskis	$337,646.81	$337,646.81	By agreement
Solar Turbines Incorporated	$164,700.00	$164,700.00	Assume Beecher payment plan
Richard Nichols	$117,000.00	$117,000.00	By agreement
RN Realty	$100,143.37	$100,143.37	By agreement
Robinson, Curley & Clayton	$804,519.11	$804,519.11	By agreement
Peoples Energy Services Corp.	$648,220.58		
Peoples Energy Service Corp.	$677,378.90	$1,225,597.48	purch by Banco
Nicor Energy, LLC	$184,917.82	$184,917.82	purch by Banco
Jenbacher Energie Systems	$492,000.00	$492,000.00	Disputed
	$3,446,523.59	$3,446,523.59	

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99-35434
Chapter 7 Proceeding
Hon. Eugene R. Wedoff

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

AFFIDAVIT OF JOHN CONNOLLY

I, John Connolly, being first duly sworn on oath, state that the following facts contained in this affidavit are true and correct, are within my personal knowledge, and if called upon to testify in Court to the following I would do so:

1. I am a resident of the State of Illinois. I am over the age of twenty-one and have never been convicted of a felony or crime of moral turpitude.

2. At all time during the term of the appointment of Gregg Szilagyi, Chapter 11 Trustee (the "Chapter 11 Trustee") and thereafter, I served as President of Resource Technology Corporation (the "Debtor") in the above-captioned matter. I have from time to time acted as an agent for the Debtor with regard to transactions and oversaw the Debtor's day-to-day operations.

3. I am experienced in the landfill gas recovery industry and have conducted business on behalf of the Debtor in its conversion of landfill gas to

electricity. As a result, in my capacity as President, I worked closely with the Chapter 11 Trustee and Jay A. Steinberg, the Chapter 7 Trustee.

4. I am filing this affidavit in support of the Motion of Chiplease, Inc. and Scattered Corporation to Compel the Chapter 7 Trustee to Seek Assumption and Assignment of Certain Contracts. I am knowledgeable regarding the contracts for which such relief is sought (the "Disputed Contracts") and the Debtor's performance under said contracts, both pre-petition and throughout the pendency of this bankruptcy proceeding.

A. The McCook / Lyons Contract

5. On December 27, 1995, the Debtor entered into an Agreement with American Grading Company ("AGC") by which the Debtor was granted the right to develop and install a landfill-gas-to-energy project at the AGC-owned landfill in Lyons, Illinois (the "AGC Agreement").

6. On September 19, 2005, I, in my capacity as the Debtor's President, delivered a notice to AGC extending the AGC Agreement (the "AGC Extension").

7. I was authorized by the Chapter 11 Trustee to send extension notices required under contracts to which the Debtor was a party. This included an authorization to send the AGC Extension. The Chapter 11 Trustee previously authorized me to send extension notices for the Debtor's contracts for the following landfills: Springfield (April 2005); Taylor Ridge (April 2005); and Columbus (July 2005). In each case, I sent the extension notices and delivered a copy to the Chapter 11 Trustee. In each case, the Chapter

11 Trustee did not object or otherwise revoked his authorization to me to act.

8. The Chapter 11 Trustee authorized me to send all extension notices for the Debtor's contracts as they came due. The Chapter 11 Trustee indicated that he wanted both of us to send such extension notices automatically to prevent any contracts from expiring.

9. With regard to the letter agreement dated June 22, 2005 regarding the agreement the Chapter 11 Trustee and Banco Panamericano, Inc., Chiplease, Inc. and Leon Greenblatt (the "Banco parties"). The Chapter 11 Trustee told me that I was authorized to do all things that were necessary to effectuate the settlement with the Banco parties.

B. The Corpus Christi Contract

10. I have reviewed the objection filed by the City of Corpus Christi (the "City") with regard to the requested assumption and assignment of the gas rights agreement for the Corpus Christi landfill (the "CC Landfill").

11. The alleged breaches asserted by the City with regard to the gas rights agreement are inaccurate. The City claims that the Debtor failed to obtain necessary permits. However, the Debtor obtained the permit for the construction of the Collection System, and a partial permit for the upgrade of the Collection System. The Debtor and Weaver Boos, the consultant approved by the City, prepared applications for permits for the remainder of the Collection System and for the Conversion System. The City has refused for several years to sign these applications, and has failed to explain its refusal. Without these

permits, the Debtor cannot upgrade the Collection System or construct the Conversion System.

12. The Debtor has submitted names of contractors to the City, and the City has approved those contractors. Again, without the necessary permits, the Debtor cannot hire contractors to complete work on the systems, and so there are no other contractors to identify to the City.

13. The City claims the Debtor has failed to provide the City with copies of Debtor's monthly operating reports. The Debtor has filed monthly operating reports throughout the bankruptcy case, which the City knows and it can access those reports.

14. The City claims there has been a 90-day lapse in the operations of the Collection and Conversion systems. There is no Conversion System, due to the permitting delays listed above, so that is not applicable. There has been no lapse in the operation of the Collection System, as I have repeatedly advised the City.

15. Under ¶5.2 of the Agreed Order, by which the Corpus Christi gas rights agreement was assumed in 2003, the City is required to negotiate and mediate any disputed regarding the performance of duties to operate or maintain the gas systems. The City has never attempted such negotiation or mediation.

16. I am aware that the City of Corpus Christi obtained a default judgment against the Debtor in the Texas state courts relating to the gas rights agreement. I was never served with a complaint or summons in that litigation.

C. The Columbus, Georgia Contract

17. On July 11, 2005, I sent a letter to the City of Columbus, Georgia, in my capacity as President of

the Debtor, exercising the Debtor's option to renew the Columbus Agreement. I acted with the advance knowledge, and with the authorization of, the Chapter 11 Trustee. I copied the Chapter 11 Trustee on the extension. As set forth above, this system agreed to by the Chapter 11 Trustee and myself to make sure none of the Debtor's contracts expired.

18. The Debtor has complied with all of its obligations under the gas rights agreement for the Columbus landfill.

D. *The Bloomington Contract*

19. On October 29, 2005, acting at the direction and specific request of the Chapter 7 Trustee, I sent a Notice of Extension to John Sexton Contractors Co., extending the Bloomington Contract for a term of five years. This notice was sent by certified mail.

20. Allied has claimed that the Debtor breached its obligations under the Bloomington Contract by failing to apply for or obtain necessary licenses, permits, or contracts, or to utilize its best efforts in connection therewith at the Bloomington landfill. Allied claims that the Debtor failed to construct a gas collection system or a gas conversion system at the Bloomington landfill, and that the Debtor has no equipment located thereon and does not operate on the site.

21. Allied's assertions are false. The Debtor did install several landfill gas wells in 1998, pursuant to the Bloomington Contract. Given the small size of the landfill and the open, active nature of the landfill, the Debtor was prevented from performing further work on the collection system, or installing the conversion system. Therefore, no licenses, permits or contracts were necessary. The Debtor utilized its best efforts to

perform under the Bloomington Contract, to the extent it was able to do so.

22. I am not aware whether any of the wells installed by the Debtor remain at the landfill. I believe that some of the Debtor's wells were removed by Allied to enable them to deposit more waste at the site. This was done without the Debtor's knowledge or consent.

E. *The Rosencranse Contract*

23. I am familiar with the December 31, 1996 License Agreement between the Debtor and Rosencranse Corporation relating to the construction and operation of a landfill gas-to energy conversion project at the landfill located in Wayne County, Pennsylvania (the "Rosencranse Contract").

24. I am aware that the Chapter 11 Trustee sought to assume the Rosencranse Contract, and that the Court entered orders on March 24, 2005 denying the Chapter 11 Trustee's Motion to Assume and granting Rosencranse relief from the automatic stay to exercise its rights to terminate the Rosencranse Contract.

25. At all times between March 24, 2005 and the date of this affidavit, I have been the President of the Debtor. At no time on or subsequent to March 24, 2005 did Rosencranse Corporation terminate the Rosencranse Contract. I did not receive any notice of termination from Rosencranse. To my knowledge, no other representative of the Debtor or its estate received any such notice.

E. *The Peoria Contract*

26. On September 30, 2005, I sent a Notice of Extension to the City and County of Peoria, extend-

ing the Peoria Contract for a term of five years. This notice was sent by certified mail.

27. I subsequently discussed this extension with the Trustee, who had just been appointed. He indicated that he accepted the extension and ratified my actions in extending the Peoria Contract.

F. *The ADS Agreement*

28. I am familiar with the December 21, 1995 Agreement between the Debtor and American Disposal Services, Inc. by which the Debtor was granted the right to develop and install landfill-gas-to-energy projects at various Allied Waste Industries, Inc. ("Allied") owned landfills in 1) Pontiac, Illinois, 2) Clarion, Pennsylvania, 3) Wheatland, Kansas and 4) Wyandot, Ohio (the "ADS Agreement")

29. In March 1999, Allied, as successor to ADS, sent a letter to the Debtor, claiming that the Debtor had breached the ADS Agreement, and purporting to terminate the contract as to the Wheatland, Wyandot and Clarion sites. Allied claimed that the Debtor had failed to pursue the completion of the sites, and that the Debtor had failed to reimburse Allied for monies it spent installing equipment at the sites.

30. The Allied termination letter was sent without any basis under the terms of the agreement between the parties. The Debtor had fully complied with its obligations under the agreement up to the receipt of the termination' notice. The Debtor had installed landfill gas collection systems at each of the sites. The Debtor had expended in excess of $795,000 toward installation of gas collection systems at the three sites. The Debtor had diligently pursued its obligations under the Agreement. The Debtor was not obligated under the terms of the agreement to

compensate Allied for expenditures unless and until the Debtor incorporated any of Allied's construction at the site into the Debtor's gas collection systems. The termination notice was therefore ineffective.

31. After the termination notice was sent, ADS prevented the Debtor from performing work on the landfill sites, and thereby prevented the Debtor from completing the projects within the time frame called for under the ADS Agreement.

FURTHER AFFIANT SAITH NAUGHT.

_____/s/_____
JOHN CONNOLLY

State of Illinois

County of Cook

I,____/s/_____, a Notary Public in and for said County and State, do hereby certify that John Connolly, personally known to me, appeared before me this 26th day of May 2006, in person, and having been duly sworn, signed this affidavit.

Given under my hand and official seal this 26th day of May 2006.

_____/s/____
Notary Public

{SEAL}

Gregory J. Jordan
Peter J. Schmidt
Dykema Gossett PLLC
10 S. Wacker Drive, Suite 2300
Chicago, Illinois 60606
Phone: (312) 876-1700
Fax: (312) 876-1155

Resource Technology Corporation

330 South Wells Street, Suite,711
Chicago, Illinois 60606;
312-341-4059
312-341-9596 — Fax

July 11, 2005

NOTICE OF EXTENSION

Via Certified Mail — 70022410000227360417
Return Receipt Requested

City of Columbus, GA
Department of Public Services
1152 Cusseta Road
Columbus, GA 31901

Re: Columbus Landfill Agreement between Resource Technology Corp. ("RTC") and City of Columbus, GA

Gentlemen:

Reference is hereby made to that certain Agreement dated August 15, 1995 between RTC and City of Columbus, GA ("the Agreement"). We hereby notify you, in accordance with the terms of the Agreement, of RTC's intention to extend the Agreement *for* five (5) years from the expiration date of the Agreement, August 15, 2005, Accordingly, the Agreement shall be continued to August 15, 2010.

This letter shall be attached to the Agreement and made a part thereof.

____/s/____
JOHN E. CONNOLLY
President
Resource Technology Corporation

Resource Technology Corporation

330 South Wells Street, Suite 711
Chicago, Illinois 60606
312-341-4059
312-341-9596 — Fax

September 23, 2005

NOTICE OF EXTENSION

Via Certified Mail —
Return Receipt Requested 70030500000013566252

City of Peoria
Director, Department of Public Works , ,
419 Fulton Street
Peoria, IL 61602

Re: Peoria County Landfill Agreement between Resource Technology Corp. ("RTC") and City of Peoria

Gentlemen:

Reference is hereby made to that certain Agreement dated November 30, 1995 between RTC and City of Peoria ("the Agreement"). We hereby notify you, in accordance with the terms of the Agreement, of RTC's intention to extend the Agreement for five (5) years from the expiration date of the Agreement, November 30, 2005. Accordingly the Agreement shall be continued to November 30, 2010.

This letter shall be attached to the Agreement and made a part thereof.

_____/s/_____
JOHN E. CONNOLLY
President
Resource Technology Corporation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99 B 35434
Chapter 7
Hon. Eugene R. Wedoff

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER [I) GRANTING TRUSTEE AUTHORITY TO EXTEND CERTAIN GAS RIGHTS AGREEMENTS; AND 11 APPROVING INDEMNIFICATION RELATING TO EXTENSION OF AGREEMENTS RETROACTIVE TO OCTOBER 29 2005

This matter coming before the Court on the Motion of Jay Steinberg, not individually, but solely as the Chapter 7 Trustee ("Trustee") for the estate of Resource Technology Corporation (the "Debtor") (1) for Authority to Extend Certain Gas Rights Agreements and (ii) to Approve Indemnification Relating to Extension of Agreements Retroactive to October 29, 2005 ("Motion"). The Court finding notice to be sufficient and the relief provided herein to be in the best interest of the estate. The Court further being fully advised in the premises,

1. The Trustee is authorized to cause John Connelly, the President of the Debtor, to send a Notice of Extension relating to the following agreements and retroactive to October 29, 2005:

(i) the agreement ("Peoria Agreement") entered into by the Debtor concerning the facility located at 11501 West Cottonwood Lane, Brimfield, Peoria County, Illinois (the "Peoria Property");

(ii) the agreement entered into between the Debtor and Noble Earth Corporation dated October 27, 1995 (the "Instate Agreement"); and

(iii) the agreement entered into between the Debtor and John Sexton Contractors Co. effective December 29, 1995 (the "Bloomington Agreement").

2. The letter of understanding executed by the Trustee, on the one hand, and Gregory J. Jordan, as duly authorized agent for Scattered Corporation, Leon Greenblatt, Chiplease, Inc. and Banco Panamericano (the "Peoria Lenders") and for Leon Greenblatt, Chiplease, Inc. and Banco Panamericano (the "Bistate/Bloomington Lenders") on the other hand, on October 29, 2005, is hereby approved in its entirety (the "Letter of Understanding") retroactive to the date of its execution on October 29, 2005.

3. The indemnification agreement contained in the Letter of Understanding, whereby the Peoria Lenders agree to fully indemnify and hold the Trustee and the Estate of Resource Technology Corporation harmless from any and all costs, expenses or claims (collectively, "Claims") that arise as a result of the extension of the Peoria Agreement, is hereby approved retroactive to October 29, 2005. The parties recognize that the Letter of Understanding also provides that notwithstanding the foregoing, the Peoria Lenders do not agree to indemnify the Trustee or any of his predecessors or successors or the Debtor's estate, from any Claims that arose or could have been asserted prior to the extension of the Peoria Agree-

ment or any Claims that have been or may be asserted by the Peoria Lenders against the Trustee.

4. In the event of a dispute as to any cure costs relating to the Peoria Agreement, such dispute shall be determined by this Court.

5. The indemnification agreement contained in the Letter of Understanding whereby the Bistate/Bloomington Lenders agree to fully indemnify and hold the Trustee and the Estate of Resource Technology Corporation harmless from any and all costs, expenses or claims (collectively, "Claims") that arise as a result of the extension of the Bistate Agreement or the Bloomington Agreement, is hereby approved retroactive to October 29, 2005. The parties recognize that the Letter of Understanding also provides that notwithstanding the foregoing, the Bistate/Bloomington Lenders do not agree to indemnify the Trustee or any of his predecessors or successors or the Debtor's estate, from any Claims that arose or could have been asserted prior to the extension of the Bistate or Bloomington Agreement or any Claims that have been or may be asserted by the Bistate/Bloomington Lenders against the Trustee,

6. Any interpretation or enforcement of the Letter of Understanding shall be brought before this Court.

7. The Trustee and the Estate have not consented to the jurisdiction of the Circuit Court of Cook County or any other court,

Dated: NOV 22 2005

ENTERED:

/s/

U.S. Bankruptcy Judge

Resource Technology Corporation

330 South Wells Street, Suite 711
Chicago, Illinois 60606
312-341-4059
312-341-9596 — Fax

July 11, 2005

NOTICE OF EXTENSION

Via Certified Mail —70022410000227360417
Return Receipt Requested

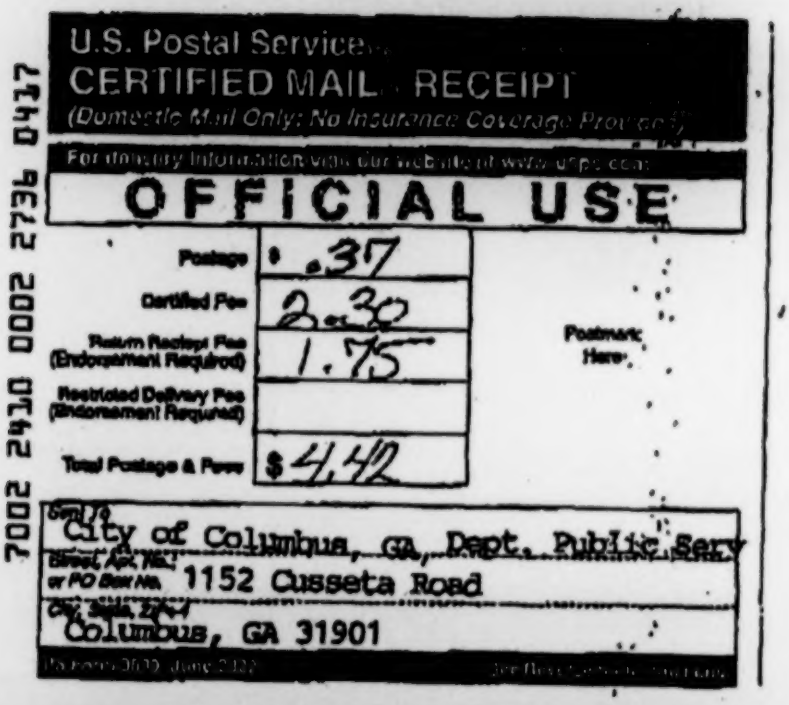
City of Columbus
Department of Public Services
1152 Cusseta Road
Columbus, GA 31901

RE: Columbus Landfill Agreement between Resource Technology Corp ("RTC") and City of Columbus, GAJohn Sexton Contractors Co

Reference is hereby made to that certain Agreement dated August 15, 1995 between RTC and City of Columbus, GA ("the Agreement"). We hereby notify you, in accordance with the Agreement, of RTC's intention to extend the Agreement for five (5) years from the expiration date of the Agreement, August 15, 2005. Accordingly, the Agreement shall be continued to August 15, 2010.

This letter shall be attached to the Agreement and made a part thereof.

/s/ JOHN E. CONNOLLY
President
Resource Technology Corporation



U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

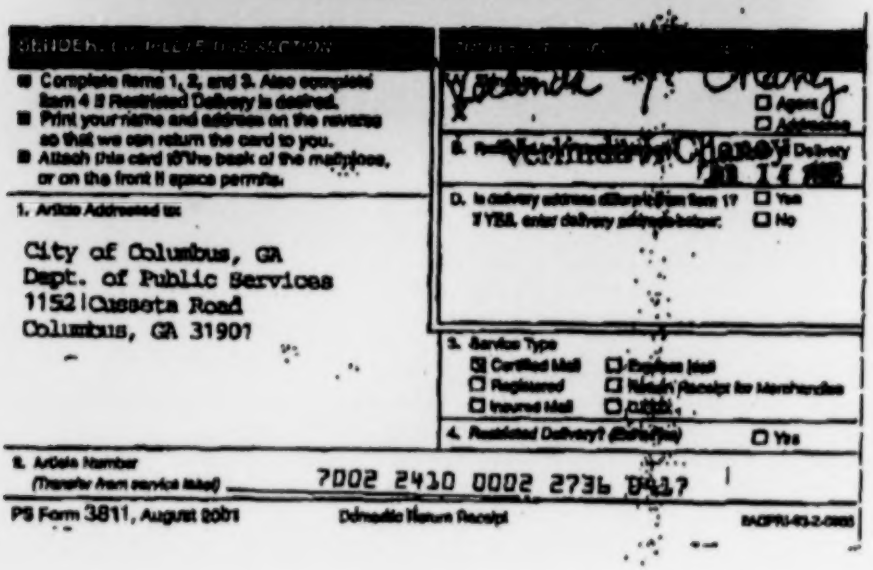
Postage	$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 4.42

Postmark Here

7002 2410 0002 2736 0417

Sent To: City of Columbus, GA, Dept. Public Serv
Street, Apt. No.; or PO Box No. 1152 Cusseta Road
City, State, ZIP+4 Columbus, GA 31901

PS Form 3800, June 2002 — See Reverse for Instructions



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

City of Columbus, GA
Dept. of Public Services
1152 Cusseta Road
Columbus, GA 31901

COMPLETE THIS SECTION ON DELIVERY

A. Signature: Veronica T. Cheney — ☐ Agent ☐ Addressee

B. Received by (Printed Name): Veronica T. Cheney — C. Date of Delivery: JAN 14 2003

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7002 2410 0002 2736 0417

PS Form 3811, August 2001 — Domestic Return Receipt — 102595-02-M-1035

Resource Technology Corporation

330 South Wells Street, Suite 711
Chicago, Illinois 60606
312-341-4059
312-341-9596 — Fax

September 23, 2005

NOTICE OF EXTENSION

Via Certified Mail —70030500000135616252
Return Receipt Requested

City of Peoria
Director, Department of Public Works
419 fulton Street
Peoria, IL 61602

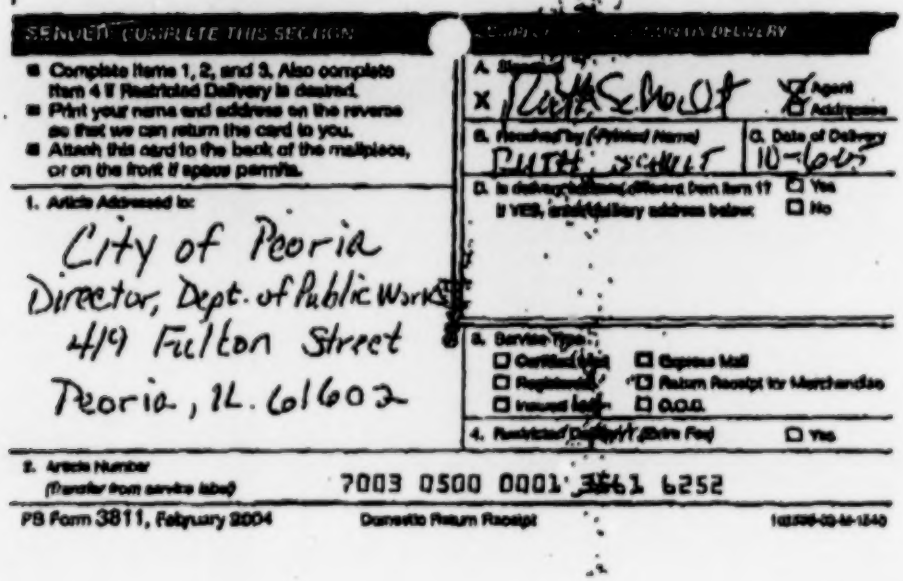
RE: Peoria County Landfill Agreement between Resource Technology Corp ("RTC") and City of Peoria

Gentlemen:

Reference is hereby made to that certain Agreement dated November 30, 1995 between RTC and City of Peoria ("the Agreement"). We hereby notify you, in accordance with the Agreement, of RTC's intention to extend the Agreement for five (5) years from the expiration date of the Agreement, November 30, 2005. Accordingly, the Agreement shall be continued to November 30, 2010.

This letter shall be attached to the Agreement and made a part thereof.

/s/ JOHN E. CONNOLLY
President
Resource Technology Corporation



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

City of Peoria
Director, Dept. of Public Works
419 Fulton Street
Peoria, IL. 61602

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☒ Agent ☐ Addressee

B. Received by (Printed Name) RUTH SCHULT

C. Date of Delivery 10-16-03

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7003 0500 0001 3661 6252

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99 B 35434

Chapter 7

In re: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

Hon. Eugene R. Wedoff

ORDER (I) GRANTING TRUSTEE AUTHORITY TO EXTEND CERTAIN GAS RIGHTS AGREEMENTS: AND (II) APPROVING INDEMNIFICATION RELATING TO EXTENSION OF AGREEMENTS RETROACTIVE TO OCTOBER 29, 2005

This matter coming before the Court on the Motion of Jay Steinberg, not individually, but solely as the Chapter 7 Trustee ("Trustee") for the estate of Resource Technology Corporation (the "Debtor") (1) for Authority to Extend Certain Gas Rights Agreements and (ii) to Approve Indemnification Relating to Extension of Agreements Retroactive to October 29, 2005 ("Motion"). The Court finding notice to be sufficient and the relief provided herein to be in the best interest of the estate. The Court further being fully advised in the premises,

1. The Trustee is authorized to cause John Connelly, the President of the Debtor, to send a Notice of

Extension relating to the following agreements and retroactive to October 29, 2005:

(i) the agreement ("Peoria Agreement") entered into by the Debtor concerning the facility located at 11501 West Cottonwood Lane, Brimfield, Peoria County, Illinois (the "Peoria Property");

(ii) the agreement entered into between the Debtor and Noble Earth Corporation dated October 27, 1995 (the "Bistate Agreement"); and

(iii) the agreement entered into between the Debtor and John Sexton Contractors Co. effective December 29, 1995 (the "Bloomington Agreement").

2. The letter of understanding executed by the Trustee, on the one hand, and Gregory J. Jordan, as duly authorized agent for Scattered Corporation, Leon Greenblatt, Chiplease, Inc. and Banco Panamericano (the "Peoria Lenders") and for Leon Greenblatt, Chiplease, Inc. and Banco Panamericano (the "Bistate/Bloomington Lenders") on the other hand, on October 29, 2005, is hereby approved in its entirety (the "Letter of Understanding") retroactive to the date of its execution on October 29, 2005.

3. The indemnification agreement contained in the Letter of Understanding, whereby the Peoria Lenders agree to fully indemnify and hold the Trustee and the Estate of Resource Technology Corporation harmless from any and all costs, expenses or claims (collectively, "Claims") that arise as a result of the extension of the Peoria Agreement, is hereby approved retroactive to October 29, 2005. The parties recognize that the Letter of Understanding also provides that

notwithstanding the foregoing, the Peoria Lenders do not agree to indemnify the Trustee or any of his predecessors or successors or the Debtor's estate, from any Claims that arose or could have been asserted prior to the extension of the Peoria Agreement or any Claims that have been or may be asserted by the Peoria Lenders against the Trustee.

4. In the event of a dispute as to any cure costs relating to the Peoria Agreement, such dispute shall be determined by this Court.

5. The indemnification agreement contained in the Letter of Understanding whereby the Bistate/Bloomington Lenders agree to fully indemnify and hold the Trustee and the Estate of Resource Technology Corporation harmless from any and all costs, expenses or claims (collectively, "Claims") that arise as a result of the extension of the Bistate Agreement or the Bloomington Agreement, is hereby approved retroactive to October 29, 2005. The parties recognize that the Letter of Understanding also provides that notwithstanding the foregoing, the Bistate/Bloomington Lenders do not agree to indemnify the Trustee or any of his predecessors or successors or the Debtor's estate, from any Claims that arose or could have been asserted prior to the extension of the Bistate or Bloomington Agreement or any Claims that have been or may be asserted by the Bistate/Bloomington Lenders against the Trustee,

6. Any interpretation or enforcement of the Letter of Understanding shall be brought before this Court.

7. The Trustee and the Estate have not consented to the jurisdiction of the Circuit Court of Cook County or any other court.

Dated: Nov 22 2005

Entered:

/s/ Eugene R. Wedoff
U.S. Bankruptcy Judge

Resource Technology Corporation
330 South Wells Street, Suite 711
Chicago, Illinois 60606
312-341-4059
312-341-9596 — Fax

October 7, 2005

NOTICE OF EXTENSION

Via Certified Mail
Return Receipt Requested 7005 0390 0005 2361 0032

John Sexton Contractors Co.
4415 West Harrison Street – Suite 535
Hillside, IL 60162
Attn: Mr. Arthur Daniels

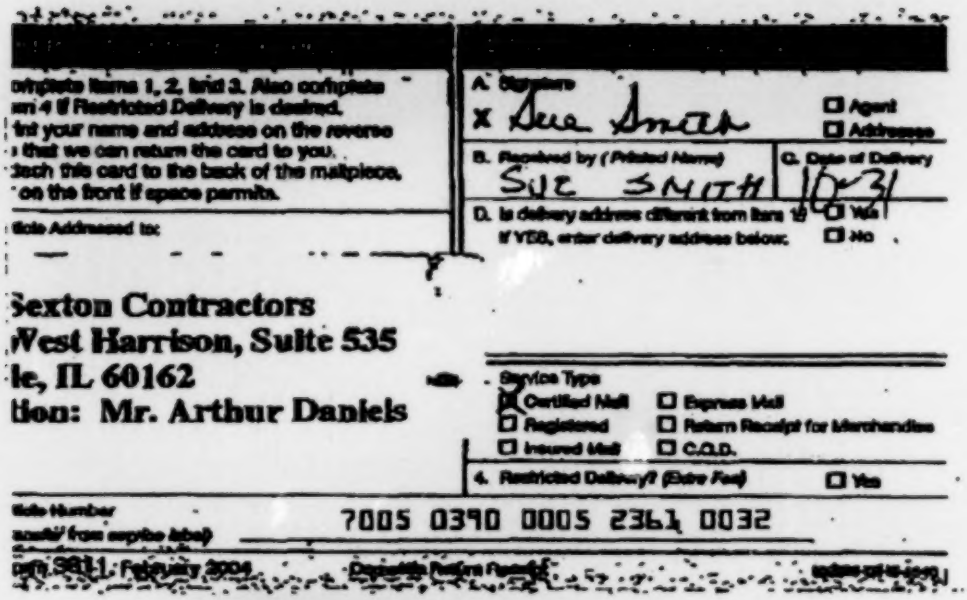
RE: Peoria County Landfill Agreement between Resource Technology Corp ("RTC") and John Sexton Contractors Co.

Gentlemen:

Reference is hereby made to that certain Agreement dated December 29, 1995 between RTC and City of Peoria ("the Agreement"). We hereby notify you, in accordance with the Agreement, of RTC's intention to extend the Agreement for five (5) years from the expiration date of the Agreement, December 29, 2005. Accordingly, the Agreement shall be continued to December 29, 2010.

This letter shall be attached to the Agreement and made a part thereof.

/s/ JOHN E. CONNOLLY
President
Resource Technology Corporation



Complete items 1, 2, and 3. Also complete
item 4 if Restricted Delivery is desired.
Print your name and address on the reverse
so that we can return the card to you.
Attach this card to the back of the mailpiece,
or on the front if space permits.

Article Addressed to:

Sexton Contractors
West Harrison, Suite 535
le, IL 60162
tion: Mr. Arthur Daniels

A. Signature
X Sue Smith
☐ Agent
☐ Addressee

B. Received by (Printed Name) SUE SMITH
C. Date of Delivery 10-31

D. Is delivery address different from item 1?
If YES, enter delivery address below:
☐ Yes
☐ No

Service Type
☒ Certified Mail
☐ Express Mail
☐ Registered
☐ Return Receipt for Merchandise
☐ Insured Mail
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)
☐ Yes

Article Number
(Transfer from service label) 7005 0390 0005 2361 0032

PS Form 3811, February 2004 Domestic Return Receipt

BEST AVAILABLE COPY

APPENDIX T

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 99-35434

IN RE: RESOURCE TECHNOLOGY CORPORATION,
Debtor.

ORDER GRANTING IN PART, DENYING IN PART THE MOTION OF CHIPLEASE, INC. AND SCATTERED CORPORATION TO COMPEL THE CHAPTER 7 TRUSTEE TO SEEK ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS

This matter coming to be heard on the Motion of Chiplease, Inc. and Scattered Corporation to Compel the Chapter 7 Trustee to Seek Assumption and Assignment of Certain Contracts (the "Motion to Compel"), the Court having jurisdiction over the parties and the subject matter of the motion, and counsel for interested parties having been given the opportunity to address the Court, the Chapter 7 Trustee advising the Court that Exhibit A constitutes a complete list of all contracts that he required Chiplease, Inc. and/or Scattered Corporation to compel him to assume and assign, and the Court having heard such argument and having considered the motion and the entire record in this proceeding to date, and being otherwise fully advised in the premises;

IT IS HEREBY ORDERED as follows:

1. That the Motion to Compel is granted as to the contracts listed on the attached Exhibit B for the reasons stated at the Court hearing held on June 13 and 14, 2006. The objections filed with respect to the contracts listed in Exhibit B are overruled. As to those contracts, the Trustee shall file a motion seeking to assume and assign such contracts on or before July 7, 2006. (the "Assumption Motion") Any party to such contract who may be effected by the assumption of and assignment of any contract listed in the Assumption Motion must file its objection on or before July 21 2006. The Trustee and any proposed assignee may file a response in support of the Assumption Motion on or before July 28, 2006, The Court shall hold a status hearing with regard to the Assumption Motion on August 15, 2006 at 10:00 a.m. at which time discovery deadlines and trial dates shall be established.

2. That the Motion to Compel is denied as to the contracts listed on the attached Exhibit C for the reasons stated at the Court hearing held on June 13 and 14, 2006,

3. Notwithstanding Paragraph 1 herein, the Trustee and his counsel, have advised the Court that they reserve their rights to seek Court approval to not go forward with a motion or to dismiss a motion that has been filed seeking assumption of the contracts listed in Exhibit B and assignment of same to Movants if additional facts are brought to the Trustee's attention that the Trustee and his counsel believe in good faith will give rise to Rule 9011 sanctions or allegations of bad faith against the Estate if such assumption and assignment motion is filed or prosecuted to conclusion.

Dated: June_____, 2006

ENTERED FOR THE COURT:

/s/ Eugene R. Wedoff
Hon. Eugene R. Wedoff
Chief Bankruptcy Judge
6/2//069

Exhibit A
Contracts At Issue

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Agreement	Resource Technology Corporation and City of Columbus, GA	08/15/95
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of Corpus Christi	11/26/96

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement Corp.	06/19/97
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
Peoria	First Amendment to Lease	Resource Technology Corporation and City and County of Peoria	06/11/96
Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97
Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97
Peoria	Fourth Amendment to Lease	Resource Technology Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates
Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Pontiac	Landfill Gas Sales Agreement	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)	04/10/2002

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Pontiac	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	06/11/96
Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	08/01/2004
Pontiac	O&M	Resource Technology Corporation and Pontiac Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Rosencranse	License Agreement	Resource Technology Corporation and Rosencranse Corporation	12/31/96
Wyandot	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Wheatland	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Solar Turbines Incorporated (as to Pontiac)	Services and Maintenance Agreement	Resource Technology Corporation, Network Electric Company and Solar Turbines Incorporated	10/25/00
All Sites (as to above)	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites (as to above)	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
All Sites (as to above)	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Multi-Site (as to above)	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Multi-Site (as to above)	Multi-Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
Multi-Site (as to above)	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
Multi-Site (as to above)	Environmental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource technology Corporation and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology Corporation and Richard Walker	1997
Multi-Site (as to above)	Agreement	Resource Technology Corporation and Richard Walker	07/31/04

EXHIBIT B

Contracts For Which The Trustee Is Compelled To Seek Assumption And Assignment

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Bloomington	Agreement	Resource Technology Corporation and John Sexton Contractors Co.	12/29/95
Bloomington	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Bloomington	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Columbus	Agreement	Resources Technology Corporation and City of Columbus, GA	08/15/95
Columbus	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

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Columbus	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi (Elliott)	Landfill Gas Collection and Conversion Agreement	Resource Technology Corporation and City of Corpus Christi	11/26/96
Corpus Christi	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Corpus Christi	Gas Sales Agreement	Resource Technology Corporation and Texas Energy Transfer	Various Dates
Lyons	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Lyons	Lease	Resource Technology Corporation and American Grading Company	12/27/95
Lyons	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	Landfill Gas Rights and Collection Facility Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Lyons	O&M Agreement	Resource Technology Corporation and Run Energy	2005
Ottawa	Agreement	Resource Technology Corporation and States Land Improvement Corp.	04/15/97
Ottawa	Amendment No. 1 to Agreement	Resource Technology Corporation and States Land Improvement Corp.	06/19/97

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Peoria	Lease	Resource Technology Corporation and City and County of Peoria	11/30/95
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Peoria	Second Amendment to Lease	Resource Technology Corporation and City and County of Peoria	01/30/97
Peoria	Third Amendment to Lease	Resource Technology Corporation and City and County of Peoria	07/01/97
Peoria	Fourth Amendment to Lease	Resource Technology Corporation and City and County of Peoria	10/28/97
Peoria	Power Purchase Agreement	Resource Technology Corporation and Cilco	Various Dates
Peoria	Landfill Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Peoria	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
As to Sites set forth in this Exhibit	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
As to Sites set forth in this Exhibit	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
As to Sites set forth in this Exhibit	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
As to Sites set forth in this Exhibit	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
As to Sites set forth in this Exhibit	Multi-Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
As to Sites set forth in this Exhibit	Waste Condensate Agreement	Resource Technology Corporation and RS Used Oil	2005
As to Sites set forth in this Exhibit	Environmental Monitoring Software	Resource Technology Corporation and Enviance, Inc.	2004
John Connolly	Employment Contract	Resource Technology Corporation and John Connolly	12/95
Richard Walker	Employment Contract	Resource Technology Corporation and Richard Walker	1997
As to Sites set forth in this Exhibit	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/99

EXHIBIT C

Contracts For Which The Trustee Is Not Compelled To Seek Assumption And Assignment

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Clarion	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Clarion	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Clarion	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Pontiac	Power Purchase Agreement	Resource Technology Corporation and Commonwealth Edison	Various Dates

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Pontiac	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Pontiac	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Pontiac	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95
Pontiac	Supplemental Fuel Standby Agreement	Resource Technology Corporation and NICOR Gas Company	08/01/2004

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Pontiac	O&M	Resource Technology Corporation and Green Gas Delaware Statutory Trust (Including All Applicable Series)	04/10/2002
Rosencranse	Landfill Gas Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	12/31/96
Rosencranse	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	12/31/96
Rosencranse	License Agreement	Resource Technology Corporation and Rosencranse Corporation	12/31/96
Wyandot	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Wyandot	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wyandot	Agreement	Resource Technology Corporation and American Disposal Service	12/21/95
Wheatland	Landfill Rights and Collection System Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Landfill Gas Sales Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
Wheatland	Agreement	Resource Technology Corporation and American Disposal Services, Inc.	12/21/95

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
Solar Turbines Incorporated (as to Pontiac)	Services and Maintenance Agreement	Resource Technology Corporation, Network Electric Company and Solar Turbines Incorporated	10/25/00
As to Sites set forth in this Exhibit	Gas Rights and Collection Facilities Lease	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
As to Sites set forth in this Exhibit	Gas Sales Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99
As to Sites set forth in this Exhibit	O&M Agreements	Resource Technology Corporation and Green Gas Delaware Statutory Trust	04/01/99
As to Sites set forth in this Exhibit	O&M Agreement	Resource Technology Corporation and Green Gas Delaware Statutory Trust	07/01/99

PARTY/SITE	TITLE OF DOCUMENT	BETWEEN	DATE OF DOCUMENT
As to Sites set forth in this Exhibit	Multi-Site Environmental Permitting/ Monitoring	Resource Technology Corporation and Trinity Consultants	2005-06
As to Sites set forth in this Exhibit	Agreement	Resource Technology Corporation and Chicago Climate Exchange	07/31/04

United States District Court,
Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Matthew F. Kennelly	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 5541	Date	03/20/2007
Case Title	In Re: In RE: Resource Technology		

Docket Entry Text

For the reasons set forth in the Memorandum Opinion and Order, the Clerk is directed to enter judgment affirming the decision of the bankruptcy court.

■ [For further detail see separate order(s).]

Docketing to mail notices.

Courtroom Deputy Initials:	OR

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Case No. 06 C 5541

In re:
RESOURCE TECHNOLOGY CORPORATION,
Debtor.

CHIPLEASE, INC. and
SCATTERED CORPORATION,
Appellants,

vs.

JAY A. STEINBERG, as Chapter 7 Trustee for RESOURCE TECHNOLOGY CORPORATION, ALLIED WASTE INDUSTRIES, INC., and AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.,
Appellees.

MEMORANDUM OPINION AND ORDER

MATTHEW F. KENNELLY, District Judge:

On June 29, 2006, Chief Bankruptcy Judge Eugene Wedoff issued an order denying creditors Chiplease, Inc. and Scattered Corporation's motion to compel the Chapter 7 trustee of Resource Technology Corp. (RTC) to seek assumption and assignment of an agreement between RTC and American Disposal Services, Inc. (ADS). Chiplease and Scattered Corp. appeal from that order. For the reasons stated below, the Court affirms the bankruptcy judge's ruling.

Background

Before it was put into involuntary bankruptcy, RTC was in the business of collecting methane gas emitted from garbage landfills and converting it into usable energy. In 1995, RTC and ADS entered into an agreement pursuant to which RTC constructed and operated landfill gas-to-energy plants at four ADS landfills located in Pontiac, Illinois, Clarion, Pennsylvania, Wheatland, Kansas, and Wyandot, Ohio (ADS agreement). The ADS agreement had an initial term of ten years unless extended by the parties. To extend the agreement, RTC had to provide written notice of its intent to renew "by certified or registered mail not less than thirty days prior to the expiration [of the term]," which was November 21, 2005. Appellee's Ex. A ¶ 4.

RTC was put into involuntary Chapter 7 bankruptcy in 1999 and later converted the case to a Chapter 11 reorganization. RTC assumed the portion of the ADS agreement related to the Pontiac, Illinois landfill in 2002. In September 2005, RTC's bankruptcy case was reconverted to a Chapter 7 liquidation, and a trustee was appointed. On November 16, 2005, the trustee asked ADS to extend to December 31, 2005 the deadline by which the ADS agreement could be renewed. ADS agreed. Neither of the parties sought a further extension.

In March 2006, the trustee and appellants, who had various legal disputes with RTC, entered into a settlement agreement whereby the appellants would purchase certain RTC assets. The settlement agreement allowed appellants to designate executory contracts that the trustee would be required to assume and then assign to appellants or their designees. Appellants did not have the right "to designate any Con-

tract ... if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant to Fed. R. Bankr. P. 9011 or allegations of bad faith." Appellee's Ex. F. 14. If the trustee refused to seek the bankruptcy court's approval to assume and assign a contract designated by appellants, appellants had the right to file a motion to compel the trustee to act.

On May 12, 2006, the trustee identified contracts, including the ADS agreement, that he would not move to assume and assign unless compelled by the bankruptcy court. The trustee informed appellants that he had received numerous objections regarding the assumption of these contracts, "particularly as to whether various contracts have terminated." Appellee's Ex. H at A. Among these objections was a letter from ADS informing the trustee that the ADS agreement had expired. On May 26, 2006, appellants moved the bankruptcy court to compel the trustee to assume the ADS agreement. On June 13, 2006, the court determined that the ADS agreement had expired and, therefore, the trustee would not have a good faith basis to assume the contract. Accordingly, the court denied the motion to compel.

Standard of Review

The Court reviews the bankruptcy judge's conclusions of law *de novo* but reviews his factual findings for clear error. *In re Sheridan*, 57 F.3d 627, 633 (7th Cir. 1989). "The clearly erroneous standard . . . does not permit a trier of fact to be overturned 'simply because [the appellate court] is convinced it would have decided the case differently.'" *In re Bonnett*, 895 F.2d 1155, 1157 (7th Cir. 1989) (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 573 (1985)). Rather, if "two permissible conclusions can be drawn, the fact-

finder's choice cannot be clearly erroneous." *Id* (citing *EEOC v. Sears, Roebuck & Co.*, 839 F.2d 302, 309 (7th Cir. 1988)). The bankruptcy court's interpretation of its own orders may not be reversed absent a "clear abuse of discretion." *Endois Corp. v. Employers Ins. of Wausau* (*In re Consolidated Indus. Corp.*), 360 F.3d 712, 716 (7th Cir. 2004) (quotation omitted).

Discussion

Appellants identify three issues that they claim require the reversal of the bankruptcy court's order: the bankruptcy court erred when it denied appellants' motion to compel; the bankruptcy court erred when it held that a motion by the trustee to assume the ADS agreement would be sanctionable; and the bankruptcy court erred when it refused to hold an evidentiary hearing on appellants' motion to compel. *See* Appellants' Brief at 2-3. Appellees dispute appellants' statement of the second issue; they argue that the bankruptcy court did not conclude that a motion to assume the ADS agreement would be sanctionable. Rather, they say, the issue before the bankruptcy court was whether the trustee "believe[d] in good faith" that assumption of the ADS contract would subject it to sanctions pursuant to Bankruptcy Rule 9011. Appellees' Brief at 1. In their reply brief, appellants appear to concede that this is the proper inquiry. Reply Brief at 1, 3. Though appellants identify three issues, the second is really a subset of the first, as it is one basis for appellants' contention that the bankruptcy court should have granted its motion to compel. Accordingly, the Court will address appellants' arguments that the bankruptcy court erred by denying their motion to compel and by refusing to hold an evidentiary hearing.

1. Appellants' motion to compel

Appellants argue that the bankruptcy court erred by addressing the issue of the expiration of the ADS agreement. They say that the issue properly before the court was whether the trustee had a good faith basis to believe that pursuing an assumption and assignment of the agreement would subject him to Rule 9011 sanctions. According to appellants, this threshold issue differed from the ultimate determination of the merits that, they say, the bankruptcy court made. In other words, appellants say, the court "was only required to determine whether the Trustee could present an argument in favor of assumption and assignment without subjecting himself to sanctions," not "that the ADS agreement could [actually] be assumed." Reply Brief at 3, 4.

Appellants have misread the bankruptcy court's decision. Though the court may not have used the magic words that appellants seem to think were necessary, it is clear that the court was considering the correct issue. Near the outset of the proceedings, the court framed the issue by stating that

> [t]he underlying issue with all of these [contracts] is whether the trustee is reasonably asserting that to pursue a motion here would violate the trustee's obligations under Rule 9011, and so the question here is whether the trustee has a good basis for believing that pursuing an assumption here would violate Rule 9011.

June 13, 2006 Tr. at 9. And in addressing the ADS agreement, the court stated, in essence, that if it was apparent that the agreement had expired, "the trustee does not have a basis for going forward on it." *Id.* at 72.

The fact that the bankruptcy court may have considered the merits of the issue of the expiration of the ADS agreement does not mean, as appellants argue, that it was putting the cart before the horse. In fact, the two issues were intertwined. A court may impose sanctions under Rule 9011 if the party's attorney failed to conduct an adequate inquiry into the facts and law before filing the claim. *In re Excello Press, Inc.*, 967 F.2d 1109, 1122 (7th Cir. 1992). The attorney's conduct is judged by a standard of objective reasonableness. *In re Kaliana*, 20713.R. 597, 601 (Bankr. N.D. Ill. 1997). In short, if there was no objectively reasonable argument that the ADS agreement had not expired, then the trustee could not properly pursue an assumption and assignment of that agreement.

For this reason, inquiry regarding whether the trustee could make a good faith argument in favor of assumption appropriately included inquiry into the issue of expiration. The bankruptcy court determined that because the ADS agreement clearly had expired, "the trustee does not have a basis for going forward on it." June 13, 2006 Tr. at 13. The court did not err in considering the expiration issue as part of its inquiry.

Nor did the court err in its underlying determination of the expiration issue. Appellants argued that the agreement had not expired by pointing to several court orders extending the time for the trustee to move to assign and assume contracts under the parties' settlement agreement. They argued that the "obvious intention" of these orders was to extend the time to renew the ADS contract. Appellants' Brief at 12. The bankruptcy court disagreed, finding that its orders clearly stated that they did not extend the deadline:

> THE COURT: Do you have any court order or any agreement that extended the time that the estate had to exercise an option to extend the underlying agreement?
>
> COUNSEL: I think that the orders extending time [to move to assume and assign] were those orders, Your Honor.
>
> THE COURT: Okay. I don't think so. We have always made a distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated. If there is nothing that prevents the expiration of the underlying agreement according to its terms other than an allegation that an order extending the time for the estate to assume or reject is in place, *the trustee does not have a basis for going forward on it.*

June 13, 2006 Tr. at 72 (emphasis added). The court summarized, "if [the agreement has] already expired, extending the time for assumption or rejection will have no impact on the expiration." *Id.* at 70.

The extension orders entered by the court only provided an extension "to the extent RTC possesses any contract rights." Appellees' Ex. 0. The orders each further stated, "nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party . . . to such contracts may have that such contracts have expired and/or been terminated prior to the date of this Order." *Id* Everyone but appellants, it seems, understood the effect of the extension orders. As the court stated,

> No, you're not going to find anything, I am confident, in the record where [ADS's] counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. They've been here vociferously arguing for a substantial period of time that the agreement had terminated.

June 13, 2006 Tr. at 74.

The bankruptcy court's interpretation of its own orders is not subject to reversal absent a "clear abuse of discretion." *Endois Corp.*, 360 F.3d at 716 (quotation omitted). Based on the unambiguous language of the extension orders, appellants cannot meet this high hurdle. The court's determination that its orders did not renew the ADS agreement was not erroneous.

2. Evidentiary hearing.

Appellants also contend that the bankruptcy court should have conducted an evidentiary hearing regarding whether the ADS agreement terminated before finding that the trustee had a good faith basis to believe that a motion to assume and assign could subject him to sanctions. Appellants argue that there were disputed issues of fact regarding "the Estate's and [ADS's] intentions and understandings as to the Trustee's dealings with [ADS] before determining that the extension of the assumption/rejection deadline was entered into by the Trustee as an exercise in futility." Appellants' Brief at 15.

Appellants do not point to any evidence they would have introduced at an evidentiary hearing that would have affected the outcome of the motion to compel. They claim that there were disputed factual issues regarding "the understanding and intentions of the

Trustee and Allied in entering into the Agreed Order and in the subsequent conduct with regard to the ADS agreement." Appellants' Brief at 15. As the bankruptcy court noted, the parties' subjective understandings and intentions regarding the court's order are irrelevant. June 13, 2006 Tr. at 73 (lilt's not a question of what his subjective understanding was. It's a question of what the terms of the order were and the terms of the underlying agreement."). There is no dispute about the language of the ADS agreement's termination provision, and appellants do not dispute that no one sought an extension of the agreement beyond December 31, 2005. Evidence regarding individuals' subjective understanding, assuming it would be admissible, would not change that. Nor is there any extrinsic evidence that would have affected the meaning of the bankruptcy court's orders extending the time for the trustee to assume or reject contracts. Accordingly, the court did not err by denying appellants' request for an evidentiary hearing.

Conclusion

For the reasons stated above, the Clerk is directed to enter judgment affirming the decision of the bankruptcy court.

/s/ Matthew F. Kennelly
MATTHEW F. KENNELLY
United States District Judge

Date: March 20, 2007

OPPOSITION BRIEF

109

No. 08-390

Supreme Court, U.S.
FILED
OCT 27 2008
OFFICE OF THE CLERK

In The Supreme Court of the United States

(In re RESOURCE TECHNOLOGY CORPORATION)

CHIPLEASE, INC. and SCATTERED CORPORATION,

Petitioners,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for Resource Technology Corporation,

Defendant,

ALLIED WASTE INDUSTRIES, INC. and AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether this Court should review the Court of Appeal's specific fact-based determination that the bankruptcy court did not err in denying a debtor's motion to compel the bankruptcy trustee to assume or reject a contract on account of doing so might subject the trustee to sanctions, where the record evidence indisputably revealed that:

(i) The motion to compel sought to compel the trustee to assume an agreement had previously expired by its own terms;

(ii) The bankruptcy court construed it own orders extending the time for the trustee to reject or assume contracts as expressly *not* having extended the time for renewing the underlying agreement that was the subject of the motion to compel;

(iii) The Petitioners failed to articulate any evidence to the bankruptcy court (nor to the district court or Seventh Circuit on appeal) that it would have presented at the requested evidentiary hearing and which would have had any bearing on the trustee's good faith in refusing to seek assumption and assignment of the expired agreement at issue.

STATEMENT PURSUANT TO RULE 29.6

Allied Waste Industries, Inc. is a publicly traded corporation and has no parent corporation.

American Disposal Services of Illinois, Inc., has the following corporate parent structure:

- American Disposal Services of Illinois, Inc. is owned 100% by County Disposal, Inc.;
- County Disposal, Inc. is owed 100% by American Disposal Services, Inc.;
- American Disposal Services, Inc. is owned 100% by Allied Waste North America, Inc.; and
- Allied Waste North America, Inc. is owned 100% by Allied Waste Industries, Inc.

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INTRODUCTION

The matter presented for review is clearly not certworthy. It represents the *fourth* court that Petitioners have brought their ill-fated serial grievance, claiming that the bankruptcy court erred when it refused to compel a Chapter 7 bankruptcy trustee to assume and assign to the Petitioners an agreement between the bankrupt debtor, Resource Technology Corp. ("RTC"), and American Disposal Services, Inc. ("ADS"), when the agreement at issue had already expired.

When the trustee of RTC's bankruptcy estate declined to seek bankruptcy court permission to assume the ADS contract and assign that agreement to Petitioners, the Petitioners moved the bankruptcy court to compel the trustee to do so. The bankruptcy court denied Petitioners'[1] request, concluding that the agreement between RTC and ADS had already expired and that for the trustee to have presented such a motion to assume and assign the contract would be frivolous under Federal Rule of Bankruptcy Procedure 9011, and would subject the trustee to sanctions. The Petitioners appealed the bankruptcy court's decision to the district court of the Northern District of Illinois. The district court affirmed the bankruptcy court's decision in its entirety, finding no error in the bankruptcy court's refusal to compel the trustee to assume and assign the ADS contract. The Petitioners then appealed the district court's decision to the Seventh Circuit, which likewise

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[1] Chiplease, Inc. and Scattered Corporation are collectively referred to as 'Petitioners."

affirmed in full, finding no error in the bankruptcy or district courts' conclusions.

The current petition offers no reason to disturb the well-reasoned decisions of three federal courts. Petitioners never suggest that the decision of the Seventh Circuit is in direct conflict with any Supreme Court or other federal precedent in its construction of any Bankruptcy Code provision. Nor do Petitioners maintain that the Seventh Circuit's decision causes or further deepens a split of authority among the Circuits on any of the issues presented, thereby warranting this Court's intervention. In fact, no error, let alone a split of authority, exists on any issue raised by the petition. Moreover, at least two of the arguments now raised by the Petitioners in support of their petition here were never raised in the courts below. The lower federal courts correctly concluded — after having exhausted two rounds of appeals — that the bankruptcy court did not err in refusing to compel the bankruptcy trustee to assume and assign an agreement that had already expired by its own terms. Accordingly, the petition should be denied.

COUNTER-STATEMENT OF THE CASE

A. The ADS Agreement.

In December 1995, RTC and ADS (now Allied) entered into an agreement, under which RTC was permitted and required to construct and operate landfill gas collection and energy plants at four Allied owned landfills located in Pontiac, Illinois, Clarion, Pennsylvania, Wheatland, Kansas, and

Wyandot, Ohio. (the "ADS Agreement"). (A. 2; A. 23.)[2] The ADS Agreement was to terminate after an initial term of ten years, that is, on December 21, 2005, unless extended by the parties. (A. 2; A. 23.) In order to extend the ADS Agreement, RTC had to provide written notice of its intent to renew by "certified or registered mail ... not less than thirty days prior to the expiration [of the contract term]," that is, by November 21, 2005. (*Id.*).

B. RTC Enters Bankruptcy and the ADS Agreement Expires.

In 1999, certain creditors filed an involuntary petition against RTC for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C. § 101 *et seq*. (the "Bankruptcy Code"). (A. 2; A. 23.) Thereafter, RTC converted the case to a Chapter 11 reorganization. (A. 3; A. 23.) While the case was a Chapter 11 proceeding, RTC assumed the Pontiac portion of the ADS Agreement. RTC did not assume the portions of the ADS Agreement relating to the Clarion, Wheatland and Wyandot landfills, which Allied contended throughout RTC's bankruptcy had terminated pre-petition. (*Id.*) In September 2005, the bankruptcy court converted the case back to a Chapter 7 and appointed Mr. Jay A. Steinberg as the Chapter 7 Trustee for RTC's Estate (the "Trustee"). (*Id.*)

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[2] All references to "A." are to pages of the Appendix attached to the Petitioners' Writ of Certiorari. All references to "S.A." are to the Supplemental Appendix attached to this submission. All emphasis is added unless otherwise noted.

On November 16, 2005, aware that the renewal deadline for the ADS Agreement was approaching, the Trustee wrote to Allied and sought an extension of time to renew the ADS from November 21, 2005, to December 31, 2005. (S.A. 1-3; A. 3; A. 23.) Allied agreed to that request in writing. (S.A. 4-6; A. 3; A. 23.) On December 31, 2005, no other extensions having been requested or granted, the ADS Agreement expired pursuant to its terms. (A. 3; A. 23.)

Following the one-time agreement between the Trustee and Allied to extend the renewal date of the ADS Agreement to December 31, 2005, the Trustee filed various motions in the bankruptcy court to extend the date by which the Trustee could move to assume or reject various RTC executory contracts. (A. 4-8.) Yet, contrary to Petitioners' claims, none of those motions requested that the renewal date for the ADS Agreement be extended. (A. 17; A. 28-29.) For example, on or about January 18, 2006, the Trustee sought an extension of time to decide whether to assume or reject a number of RTC contracts. The motion did not seek an extension of time to assume or reject the Pontiac portion of the ADS Agreement, but did seek and extension as to the other three landfill site contained in the ADS Agreement. When the parties appeared before the bankruptcy court for a hearing on the motion, Allied's counsel objected on the ground that the Clarion, Wheatland and Wyandot portions of the ADS Agreement had already terminated pre-petition. (A. 6.) The bankruptcy judge noted that:

> THE COURT: [W]hat will happen, Ms. Gelman [counsel for Allied], is that I can grant this motion. And if the trustee should hereafter attempt to assume a contract that's already been terminated, I am sure you will let me know. And I am also sure that Mr. Steinberg [the Chapter 7 trustee for RTC] wouldn't waste his time trying to assume an already terminated contract. So I think it is safe to grant this motion.
>
> * * * * * *
>
> THE COURT: **All that is happening here is that to the extent the trustee does have unexpired leases or unterminated executory contracts, this preserves the trustee's right to assume or assign those contracts.** It would otherwise be cut off, and the contracts would be deemed rejected. If you've got a contract that's already terminated, it's not going to be affected by an extension."

(A. 6-7.) The bankruptcy court granted the Trustee's motion in an order dated January 27, 2006. (A. 7.) Consistent with the court's comments, the list of contracts as to which the extension of time was being granted excluded the Pontiac portion of the ADS agreement in issue. *Id.* In accordance with the bankruptcy court's oral remarks at the January 18,

2006, hearing, the order expressly negated any suggestion that it was intended to extend the time to assume or reject contracts that had already expired:

> "5. **Nothing in this Order shall extend the right to assume or reject any contract that has already expired or been terminated** and nothing in this Order shall be deemed to be a release or waiver of any right, claim or cause of action of any kind that any party (and/or its affiliates and subsidiaries) to such contract may have that such contracts have expired and/or been terminated prior to the date of this Order."

(A. 8.)

C. The Settlement Agreement Between Petitioners And The Estate of RTC.

In March 2006, the Trustee entered into a settlement agreement with Petitioners, among other entities, resolving certain disputes. (A. 4; A. 23.) The settlement agreement permitted Petitioners to designate certain executory contracts held by RTC that the Trustee would be required to assume under Section 365 of the Bankruptcy Code and then assign to Petitioners or their designee. (*Id.*) Once the Petitioners designated a contract they wanted, the Trustee would seek the bankruptcy court's permission to assume that contract and, upon

securing that authority, assign it to Petitioners. (*Id.*) However, under the terms of the settlement agreement, Petitioners did not have the right "to designate any Contract...if the Estate believes in good faith that a particular designation will result in the Estate being subject to sanctions pursuant to Fed. R. Bankr. P. 9011 or allegations of bad faith." (A. 4; A 23-24.) The settlement agreement further provided that, if the Trustee refused to seek bankruptcy court approval to assume and assign a designated contract, Petitioners could file a motion to compel the Trustee to act accordingly. (A. 4; A. 24.)

D. The First Round of Litigation: Petitioners Seek To Compel The Trustee To Assume The ADS Agreement And Are Unsuccessful Before the Bankruptcy Court.

Following the entry of the settlement agreement, Petitioners designated the ADS agreement as one of the contracts that they wished to have assigned to them. (A. 8-9.) But on May 12, 2006, the Trustee's counsel, aware of Allied's objections that the ADS Agreement had already expired as of December 31, 2005, informed Petitioners' counsel that the Trustee would *not* be seeking to assume the ADS Agreement unless compelled to do so by the court. (A. 9; A. 24.) Two weeks later, on May 26, 2006, Petitioners proceeded to file such a motion asking the bankruptcy court to compel the Trustee to assume the previously expired ADS Agreement and assign it to them. (*Id.*) Allied objected and contended that the because the ADS

Agreement expired by its terms on December 31, 2005, it could not be assumed as a matter of law and the Trustee could not seek to assume and assign the agreement without running afoul of Bankruptcy Rule 9011. (A. 9; A. 24.)

On June 13, 2006, the bankruptcy court heard Petitioners' motion. The key issue identified by the bankruptcy court was whether the Trustee would be making a frivolous motion, subject to sanctions under Bankruptcy Rule 9011, were he to move to have the ADS Agreement assumed and assigned to Petitioners. (A. 9.) The court concluded that because ADS Agreement expired, the Trustee had no plausible basis upon which to assume the agreement, and denied Petitioners' motion to compel the Trustee to do so. (S.A. 15, 74; A. 9-10; A. 24.) The bankruptcy court further rejected Petitioners' request for an evidentiary hearing to determine whether the extensions of time the court had previously granted for the Trustee to assume or reject the various contracts in the case had somehow also extended the time by which the Trustee could renew the ADS Agreement. The court explained why no evidentiary hearing was warranted:

> THE COURT:...There is...no need for a hearing. The question that's being raised now is whether an order extending the time for assumption or rejection of an unexpired [contract] somehow has the effect of extending a deadline for renewal under the [contract]. Those really are two separate questions. **And each time**

> **that there was a motion to extend the time for assumption or rejection, I heard arguments to the effect that this has already expired, to which my response was if it's already expired, extending the time for assumption or rejection will not have impact on the expiration.**

(S.A. 73-74; A. 10.) The bankruptcy court then continued, remarking:

> So given that we're dealing with **two separate issues** (1) whether the contract has expired and (2) whether the time for assumption or rejection of the contract can be extended, I think unless you [Petitioners] can point to something, an agreement, an order of the court that extended the time for extending the contract under the contract terms, there is no basis for the trustee to assume this [the ADS] contract.

(S.A. 74; A. 10.) In response to the bankruptcy court's remarks, Petitioners' counsel could only point to the bankruptcy court's own orders granting the Trustee's request for additional time to assume or reject contracts. The bankruptcy court flatly rejected the Petitioners' position that any orders extending the time to assume or reject a contract acted either to extend the time to renew an

agreement or otherwise resuscitated the life of an already expired agreement:

> THE COURT:...**We have always made a distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated.** And given that there is that distinction, which, again, was repeatedly made as I granted motions to extend the time for the trustee to assume or reject, **the distinction was always made that granting the motion in no way implied that the underlying agreement had not terminated. That was always a separate consideration.** If there is nothing that prevents the expiration of the underlying agreement according to its terms other than an allegation that an order extending the time for the estate to assume or reject is in place, the trustee does not have a basis for going forward on it.

(S.A. 75; A. 11.) Petitioners' counsel then switched gears, suggesting that (a) the Trustee's subjective understanding should be examined on whether the ADS Agreement had already expired, and (b) Allied's counsel had somehow understood the bankruptcy court's orders to have also extended the ADS Agreement renewal date. Understandably, the bankruptcy court quickly rejected both arguments:

> THE COURT: No, you're not going to find anything, I am confident, in the record where Allied's counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. **They've [Allied] been here vociferously arguing for a substantial period of time that the [ADS] agreement had terminated. And entering an order granting the trustee a right to continue the time for assumption or rejection has no impact on that....**

(S.A. 77; A. 12.) On June 29, 2006, the bankruptcy court entered an order consistent with these findings, and denied the Petitioners' motion to compel the Trustee to assume and assign the ADS agreement. (A. 12; A. 493.)

E. The Second Round of Litigation: Petitioners Appeal The Bankruptcy Court Decision To The District Court, Which Affirms The Bankruptcy Court's Rulings.

Petitioners appealed the bankruptcy court's decision denying its motion to compel the Trustee to assume the ADS Agreement to the district court. That court addressed three issues on appeal.[3]

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[3] The district court's opinion is reported at 06 C 5541, 2007 WL 898423 (N.D. Ill. March 20, 2007) (*see also* Petition at A. 22-30).

First, the district court rejected Petitioners' contention that the bankruptcy court, in determining whether the ADS Agreement had expired, impermissibly strayed beyond the issue whether the Trustee had a good faith belief that he would be sanctioned under Bankruptcy Rule 9011 if he were to assume and assign the ADS agreement. (A. 25.) The court noted that, "[t]hough the [bankruptcy] court may not have used the magic words that [Petitioners] seem to think were necessary, it is clear that the court was considering the correct issue." (A. 26.) The district court reasoned that, whether the ADS agreement had expired was "intertwined" with the question of whether the Trustee had a good faith basis for declining to pursue assumption of the ADS agreement. (A. 27.) Absent any "objectively reasonable argument that the ADS agreement had not expired, then the trustee could not properly pursue an assumption and assignment of that agreement." (*Id.*) No such "objectively reasonable argument" was offered by Petitioners. (A. 13.)

Second, the district court agreed with the bankruptcy court's determination that the ADS Agreement, in fact, expired. Petitioners' contrary argument rested on the sole premise that the bankruptcy court's orders, which had merely allowed the Trustee to extend the time to assume or reject agreements, also acted to extend the time to renew the ADS Agreement. (A. 27-29.) This argument was soundly rejected. As put aptly by the district court, "Everyone but the [Petitioners], it seems understood the effect of the extension orders." (A. 29.)

Third, the district court found no error in the bankruptcy court's denial of a request by Petitioners for an evidentiary hearing regarding whether the ADS Agreement had previously expired. (A. 29-30.) The district court supported this conclusion by noting that Petitioners pointed to no evidence "they would have introduced at an evidentiary hearing that would have affected the outcome of the motion to compel." (*Id.*) While Petitioners suggested that an evidentiary hearing was needed to examine the Trustee's subjective intent, the district court rejected that contention for at least three reasons, because (i) there was no dispute as to the terms of the ADS Agreement's expiration, (ii) Petitioners never disputed that no one had ever sought an extension of the December 31, 2005 deadline to renew the ADS Agreement, and (iii) extrinsic evidence, even if admitted, would have had no affect on the meaning of the bankruptcy court's orders on the issue of whether extending the time for the Trustee to assume or reject contracts also affected a contract's renewal period. (A. 30.)

Significantly, at no time below did Petitioners ever raise or argue that the failure to conduct an evidentiary hearing before the bankruptcy court violated their Fifth and Fourteenth Amendment rights to due process. Given this absence, the district court never addressed any constitutional due process issues in the course of its decision affirming the bankruptcy court's decision.

F. The Third Round Of Litigation: The Seventh Circuit Rejects All Arguments Raised by Petitioners and Affirms The District Court's Decision In Its Entirety.

Having lost in their initial appeal of the bankruptcy court's decision to the district court, Petitioners sought further review before the Seventh Circuit. (*See generally*, A. 1-21.) That appeal resulted in another loss for Petitioners. In an unanimous decision, the Seventh Circuit panel concurred with the reasoning and result of both the district and bankruptcy courts on all issues presented by Petitioners in connection with the bankruptcy appeal. [4]

First, the Seventh Circuit, like the two lower courts preceding it, rejected Petitioners' argument that the bankruptcy court had prematurely determined that the ADS Agreement had expired. (A. 14.) Distinguishing and finding inapposite the Second Circuit decision of *Orion Pictures Corp. v. Showtime Networks, Inc.*, 4 F.3d 1095 (2d Cir. 1993) (where court found error in bankruptcy court's resolution of factual disputes where only issue was whether debtor or trustee should be permitted to assume contract), the Seventh Circuit pointed out that the bankruptcy court "understood what the relevant inquiry was and properly answered it." (A. 15.) The bankruptcy court had, under the Seventh Circuit's reasoning, properly assessed whether the

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[4] The Seventh Circuit's Opinion is reported at 528 F.3d 467 (7th Cir. 2008). (Petition at A.1-21.)

Trustee had a good faith concern regarding the potential for imposition of sanctions against him if he sought to assume and assign the ADS Agreement by necessarily considering whether there was a "plausible basis to argue that the ADS agreement had not, in fact, expired." (A. 16.) And, as the Seventh Circuit noted, "[t]hat is precisely what the [bankruptcy] court did: it considered the parties' respective positions as to the expiration of the ADS agreement and concluded that there was no reasonable factual or legal basis for the contention that the agreement had not expired..." (A. 16.) Thus, given that no factual disputes existed, the Seventh Circuit concluded that Petitioners were "not deprived of any right by the manner in which the court proceeded." (A. 17.)

Second, the Seventh Circuit then addressed Petitioners' recycled argument, which maintained that the ADS Agreement had not previously expired on account of *bankruptcy court orders* extending the time for the Trustee to assume or reject various executory agreements. Correctly deferring to the bankruptcy court's interpretation of its own orders, as had the district court, the Seventh Circuit noted that "nothing in any of the orders spoke of extending the time to renew the ADS agreement. Nor did the trustee, in moving for the entry of these orders, say anything about extending his time to renew the ADS agreement." (A. 17.)

The Seventh Circuit found further support in the record to conclude that no conduct evinced any agreement by Allied to extend or renew the ADS Agreement beyond its December 31, 2005, expiration

date by looking to three undisputed facts: (1) that Allied "consistently took the position that the agreement had already been terminated," (2) that "the trustee from the beginning acknowledged that granting him an extension of time to assume or reject the agreement would *not* somehow revive a contract that had already been terminated" and (3) the bankruptcy court judge expressly acknowledged Allied's position (of the ADS Agreement expiring) having never wavered, as well as his own remarks and orders when granting the Trustee's motions for additional time to assume or reject contract, that such orders did not revive the otherwise expired agreement. (A. 18.) Thus, based upon the undisputed factual record, the court rejected Petitioners' claim that Allied should have been estopped from asserting the expiration of the ADS Agreement, finding "[t]he notion that Allied somehow sat on its rights and could be precluded from arguing that the ADS agreement expired is untenable." (A. 20.)

Third, the Seventh Circuit similarly rejected Petitioners' argument of the need to examine the "unexplored questions as to what the trustee's intent was in moving to extend the time to assume or reject...." (A. 18.) The court did so, relying on settled Illinois law for the proposition that the Trustee's subjective (and unexpressed) intent was incompetent evidence to establish that there were "doubts as to whether the ADS agreement actually expired..." (A. 18.) The court readily distinguished Petitioner's reliance on the case of *M.K. Labs., Inc. v. International Developers (In re M.K. Labs., Inc.)*, 86 B.R. 12 (Bankr. D. Conn. 1988) (A. 19), since in *M.K.*

Labs., and unlike here, the parties had agreed not only to extend the debtor's time to assume or reject the lease, but had further agreed "to extend the option to renew the lease as well." (A. 19.) Here, by contrast, the Seventh Circuit reasoned, "there is no such manifestation of a shared belief as to the continued life of the ADS agreement." (A. 19.)

Finally, the Seventh Circuit quickly disposed of Petitioners' remaining argument that the bankruptcy court erred in denying it an evidentiary hearing in connection with their motion to compel the Trustee to assume and assign the ADS Agreement to them. The Seventh Circuit rejected Petitioners' assertion that it should have received an evidentiary hearing for a fundamental reason: Petitioners offered no evidence that would have been introduced at such a hearing that would have been relevant to the agreement's expiration. Indeed, the court pointed out that "[t]he notion that an evidentiary hearing was required assumes that the existing record as to the expiration of the ADS agreement was somehow ambiguous or incomplete and that additional evidence was necessary to fill in the gaps." (A. 21.) But, as the Seventh Circuit reiterated, "nothing in the record before the bankruptcy court raised any doubt as to the expiration of the ADS agreement." (A. 21.) The court bolstered this conclusion by noting that Petitioners "never articulated *what* evidence it might present at such a hearing that would be relevant to the expiration of [the ADS] agreement and to the trustee's good faith in refusing to seek the assumption of that agreement." (A. 21.) In fact, Petitioners' counsel, when asked at oral argument

before the Seventh Circuit to identify any evidence that it would introduce at the demanded evidentiary hearing, could point to none. (A. 21.) Moreover, consistent with its corresponding absence in the district court appeal, at no time did Petitioners ever raise any constitutional due process claim under the Fifth or Fourteenth Amendment before the Seventh Circuit.

REASONS FOR DENYING THE WRIT

I. PETITIONERS HAVE OFFERED NO JUSTIFICATION TO WARRANT SUPREME COURT REVIEW OF THIS MATTER, IN WHICH THREE FEDERAL COURTS HAVE ALREADY REJECTED THEIR CLAIMS BASED ON SOUND JUDICIAL REASONING.

This is the fourth federal court that Petitioners wish to present their claims.[5] Three federal courts have already examined Petitioners' arguments and rejected them all. The petition for certiorari is nothing more than a rehash of the identical arguments that the bankruptcy, district and circuit court of appeals have heard and soundly rejected.

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[5] This excludes Petitioners' Fifth and Fourteenth Amendment "due process" argument (Petition at 7-10), and their argument relating to an alleged intervening "Consent Agreement" purchased from Aquila (Petition at 3-4, 6-9), which, as discussed below, are brand new and raised, improperly so, for the first time before this Court in a certiorari petition.

Even a cursory review of Petitioners' claims makes it clear that they offer nothing to warrant the grant of further review of those issues. Nothing in their petition suggests, let alone even argues, that Supreme Court review is warranted on account of there being any split of the circuit courts of appeal on federal issues that were decided below. In fact, Petitioners never mention the existence of a split of authority on the legal issues decided in their petition because none exists. Nor does the petition claim that the Seventh Circuit's decision has somehow created a conflict in the construction of federal law that has developed among the lower courts. Indeed, the petition is nearly bereft of any pertinent case law altogether. Nor does the petition even hint at the Seventh Circuit's decision being in conflict with any Supreme Court precedent on the relatively mundane contract-related and state law issues presented below.

In short, Petitioners have had the benefit of three federal courts within which to fully air their claims. Those courts repeatedly have rejected their claims in their entirety, and in doing so conscientiously applied the correct legal standards and reached the correct result. The petition offers nothing to disturb these well-reasoned decisions. Accordingly, the request for further review should be denied.

II. PETITIONERS ARE BARRED FROM RAISING CONSTITUTIONAL AND FACTUAL CHALLENGES IN THEIR PETITION THAT WERE NOT PRESENTED IN ANY OF THE THREE FEDERAL COURT PROCEEDINGS BELOW.

A. Petitioners Have Waived Any Claims Regarding An Alleged Violation Of Their Fifth or Fourteenth Amendment Due Process Rights.

Petitioners, claiming to be "shock[ed]", stridently assert that their due process rights were violated under the Fifth and Fourteenth Amendments by reason of the bankruptcy court not affording them an evidentiary hearing on whether the Trustee should have been compelled to assume or reject the ADS Agreement. (Petition at 7.) According to Petitioners, "the courts below fail[ed] to recognize that the fundamental right to due process mandated a trial" on their motion to compel the trustee. (Petition at 7.) This position is patently disingenuous.

It is indisputable that Petitioners never raised any Fifth or Fourteenth Amendment due process arguments below in connection with their not being afforded an evidentiary hearing on the motion to compel. The guiding legal principles are incontestable: issues not raised below cannot be raised for the first time on review. *See, e.g., Youakim v. Miller*, 425 U.S. 231, 234 (1976) (*per curiam*)

("Ordinarily, this Court does not decide questions not raised or resolved in the lower court[s]."); *accord*, *Glover v. United States*, 531 U.S. 198, 205 (2001) ("In the ordinary course we do not decide questions neither raised nor resolved below."); *Adarand Constructors, Inc. v. Mineta*, 534 U.S. 103, 109 (2001) ("we ordinarily 'do not decide in the first instance issues not decided below'") (citation omitted). These principles aid in maintaining the integrity of the certiorari process. This Court should not deviate from that well-settled rule. Indeed, even Petitioner recognizes the significance of this axiom, stating in their petition that "[a] party waives an argument if it is not raised at the proper time." (Petition at 12.) Thus, under Petitioners' own authority, their Fifth and Fourteenth Amendment due process claims are waived and this Court need not, and should not, pass on those issues presented here for the first time.

Here, the record is clear that Petitioners' due process argument — which consumes nearly three pages of their petition and is their leading contention — was never raised in any of the three federal courts below. First and foremost, Petitioners never claimed their due process rights (even assuming such rights existed under these facts) were infringed in the bankruptcy court proceedings. (*See generally*, S.A. 7-78.) Indeed, despite the lengthy filings by the parties in the bankruptcy court, Petitioners never broached the issue of due process when they appealed the bankruptcy court decision to the district court. This is made clear by the complete absence of any constitutional challenges listed in Petitioners' statement of issues on appeal filed with

the district court in their brief on appeal. (S.A. 71-82.) Nor did Petitioners' briefs submitted to the Seventh Circuit raise any constitutional claim involving due process. (S.A. 86-87.) This explains why there is no mention of any constitutional challenge by either the district court or the Seventh Circuit in their respective opinions. (A. 1-21 and A. 22-30.)

Constitutional issues cannot be raised for the first time before this Court. *See, e.g., Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969); *accord, Webb v. Webb*, 451 U.S. 493, 499 (1981). This same principle applies to bar an attempt to raise a due process claim not previously argued below. *See Helland v. South Bend Cmty Sch. Corp.*, 93 F.3d 327, 332 (7th Cir. 1996) (finding waiver of due process claim being raised for first time on appeal); *see also, Moore v. Illinois*, 408 U.S. 786, 799 (1972). This petition should be no exception. The due process issue raised by Petitioners for the first time before this Court has, therefore, been waived for purposes of review. It should, therefore, not be considered.

B. Petitioners Have Waived Any Claims Regarding Rights Acquired As An Alleged Successor To Other Agreements.

Petitioners spend a considerable amount of time in their factual background discussing a loan from Aquila Energy Capital Corporation to RTC, a Consent Agreement allegedly entered into between RTC and Allied, and Scattered's alleged purchase of

rights from Aquila that occurred on or about February 2, 2006. (Petition at 3-4, 6-7.) Petitioners also drop vague references to these agreements throughout various portions of their argument section. (Petition at 8-9, 13.) Petitioners apparently contend that Scattered's alleged status as a successor to Aquila somehow granted them rights relating to the ADS Agreement, even though by their own admission Scattered acquired whatever rights it took from Aquila more than one month *after* the ADS Agreement expired on December 31, 2005. (Petition at 4.) The substance of Petitioners' convoluted arguments on this issue can be ignored because, once more, Petitioners are raising arguments in their petition that were never presented to either the district court or the Seventh Circuit below. As a result, the claims are waived.

Neither of the two statements of issues on appeal filed with the courts below raised any of the claims regarding Aquila that the Petitioners now try to present here for the first time. (S.A. 79-84; S.A. 85-88.) Likewise, none of Petitioners' briefs in the district court or the Seventh Circuit raised any of the arguments that they make here now. Lastly, neither the district court's nor the Seventh Circuit's opinion makes a single mention of Aquila, a Consent Agreement or any rights acquired by Scattered related to them. (A. 1-21; 22-30.) This is because the Petitioners *never* raised these arguments in the appeals they took below.

To the extent Petitioners now claim that it was Scattered's status as an alleged successor to

Aquila and/or the Consent Agreement that they wished to present at the evidentiary hearing denied them by the bankruptcy court, that is easily disposed of by the record. (Petition at 8-9.) As discussed in more detail in Section III below, the Seventh Circuit rightfully observed that, notwithstanding multiple opportunities to do so, at no time did the Petitioners ever articulate *what* evidence they might have presented at an evidentiary hearing if given the chance. Even at oral argument, their counsel was "unable to identify any evidence that it might have produced at such a hearing." (A. 21.)

Accordingly, for the same reasons discussed above relating to Petitioners' constitutional claims, any factual arguments made by Petitioners here relating Scattered's alleged status as a successor to Aquila have long since been waived. This Court should, therefore, not consider such arguments as they were not presented to, or resolved by, the district court or Seventh Circuit below.

III. THE LOWER COURTS CORRECTLY REJECTED PETITIONERS' ARGUMENT THAT THEY WERE ENTITLED TO AN EVIDENTIARY HEARING ON WHETHER THE TRUSTEE SHOULD BE COMPELLED TO ASSUME OR REJECT THE ADS AGREEMENT.

Even apart from Petitioners' waiver of their due process claim, the fact is, the three lower courts correctly rejected the Petitioners' assertion that they should have been accorded an evidentiary hearing.

Two grounds clearly supported this conclusion: (1) the undisputed evidence demonstrating that the ADS Agreement expired *before* the Petitioners sought to compel the Trustee to assume or reject that agreement, and (2) despite urging from the bankruptcy court and, later, even by the Seventh Circuit, at no time did Petitioners point to any evidence that they *would have introduced* at an evidentiary hearing that could have otherwise affected the outcome of the motion to compel the Trustee. Petitioners have offered no reason for this Court to review the well-reasoned decisions of these three courts, which correctly denied the Petitioners' request for an evidentiary hearing.

First, Petitioners maintain that they should have been permitted to explore the intention of the Trustee in moving to extend the time to assume or reject the contracts. But, as all three lower courts fully recognized, the subjective and unexpressed intentions of the Trustee could not alter the unambiguous terms of the underlying agreement and the bankruptcy court's orders. *See* Petition, A.18-19 (citing to *Sethness-Greenleaf, Inc. v. Green River Corp.*, 65 F.3d 64, 67 (7th Cir. 1995) (applying Illinois law) ("Contractual obligations are created and defined by objective signals the parties exchange. Private expectations are of no consequence."); *Midland Hotel Corp. v. Rueben H. Donnelley Corp.*, 515 N.E.2d 61, 65 (Ill. 1987) ("defendant's subjective understanding of the terms of the contract is immaterial"); *Carey v. Richards Bldg. Supply Co.*, 856 N.E.2d 24, 27 (Ill. App. Ct. 2006) ("it is commonly stated that undisclosed intentions are not relevant" in contract

interpretation). The Seventh Circuit made this plain, finding that "nothing in the record before the bankruptcy court raised any doubt as to the expiration of the ADS agreement." (A. 21.) The district court likewise concluded that "[t]here is no dispute about the language of the ADS agreement's termination provision..." (A. 30.) As did the bankruptcy court, which noted that "[i]t's not a question of what his [the trustee's] subjective understanding was. It's a question of what the terms of the order were and the terms of the underlying agreement.") (A. 30, citing to June 13, 2006 Tr. at 73 (S.A. 76).) And, on this score, the bankruptcy court's construction and meaning of its own orders was entitled to great deference, and must not be disturbed absent "a clear abuse of discretion." (A. 25, citing to *Endois Corp. v. Employers of Wausau (In re Consolidated Ins. Corp.*, 360 F.3d 712, 716 (7th Cir. 2004).) The courts correctly concluded this "high hurdle" was not met by Petitioners and affirmed the manner in which the bankruptcy court had interpreted its own orders. Petitioners advance no contrary authority to disturb this ruling. (A. 29.)

Since it was undisputed that the language of the ADS Agreement's renewal and expiration provision was unambiguous, coupled with the absence of any evidence offered by Petitioners that "no one sought an extension of the [ADS] agreement beyond December 31, 2005," the lower federal courts correctly denied Petitioners' request for an evidentiary hearing. (A. 30.)

Second, it is beyond dispute that, despite having been afforded several opportunities to do so, Petitioners stood mute when given the chance to describe just *what* evidence they would have offered had they been given the requested evidentiary hearing. The district court first recognized that Petitioners pointed to no "evidence they would have introduced at an evidentiary hearing that would have affected the outcome of the motion to compel." (A. 13.) On further appeal, the Seventh Circuit put it bluntly: Petitioners "never articulated what evidence it might present at such hearing that would be relevant to the expiration of that [ADS] agreement and to the trustee's good faith in refusing to seek the assumption of that agreement." (A. 21.) The Seventh Circuit even afforded Petitioners the opportunity to tell them at oral argument on their appeal of what evidence they might have introduced at the requested evidentiary hearing. But, here, too, Petitioners' counsel again came up blank and was "unable to identify any evidence that it might have produced at such hearing." (A. 21.)

All three lower federal courts meticulously examined whether Petitioners were entitled to the requested evidentiary hearing. And, all three courts reached the same conclusion: "no." Petitioners have presented no principled reason for this Court to review this case when the lower courts provided well-reasoned analyses for having rejected Petitioners' claim on three separate occasions.

IV. THE LOWER COURTS CORRECTLY REJECTED PETITIONERS' ARGUMENT THAT THE BANKRUPTCY COURT HAD PREMATURELY DECIDED THE ISSUE WHETHER THE ADS AGREEMENT HAD EXPIRED.

Another equally baseless assertion by Petitioners is that the bankruptcy court prematurely decided the issue whether the ADS Agreement had expired when considering the motion to compel the Trustee to assume or reject that agreement. In Petitioners' view, the bankruptcy court should never have addressed the viability of the ADS Agreement, but should have only determined whether a motion by the Trustee to assume or reject the agreement would have been frivolous, and therefore subject to sanctions under Bankruptcy Rule 9011. Both the district court and Seventh Circuit correctly rejected this argument because the combination of settled legal principles and common sense demonstrated the bankruptcy court conducted the proper legal inquiry.

The record left no doubt that the bankruptcy court fully understood the nature of the relevant inquiry and properly answered it. (A. 15.) *First*, leading bankruptcy commentators confirm that an expired contract, such as the ADS Agreement, cannot be assumed, let alone assigned. (A. 15-16, quoting, R. Ginsberg & R. Martin, *Ginsberg & Martin on Bankruptcy*, § 7.01[C], at 7-8 n.37 (4th ed. 1995 and Supp. 2006) ("Of course, if the executory contract (or lease) expires by its own terms during the postpetition, pre-petition/rejection period, the trustee will have nothing to assume or reject.").)

Indeed, as Allied pointed out before the Seventh Circuit, even Petitioners conceded that "[i]f the ADS Agreement expired, there would be nothing for the Trustee to assume or reject." (A. 15.)

Second, both the district court and Seventh Circuit correctly recognized the common sense approach that "a court cannot determine whether a claim has a reasonable basis in law or fact...*without examining the legal and factual foundations of the claim*; to that extent, the charge that a claim is sanctionable necessarily overlaps with the merits of the claim." (A. 16.) This procedural point is well-established. *See, e.g., Cleveland Hair Clinic, Inc. v. Puig*, 104 F.3d 123, 125 (7th Cir. 1997); *City of E. St. Louis v. Circuit Court for Twentieth Judicial Circuit, St. Clair County, Ill.*, 986 F.2d 1142, 1143 (7th Cir. 1993). The fact that the bankruptcy court addressed the merits of whether the ADS agreement had expired, did not mean, as Petitioners unsuccessfully argued below, "that it [the bankruptcy court] was putting the cart before the horse" since the two issues were inextricably "intertwined." (A. 27.) The bankruptcy court, when faced with Petitioners' motion to compel, considered the parties' positions as to the ADS agreement's expiration date in order to reach the conclusion that no reasonable bases existed for the contention that the agreement had *not* expired such that the Trustee could assume the ADS agreement without fear of being subject to

sanctions. (A. 16.) Unquestionably, that approach is legally sound.[6]

Third, Petitioners contend that their motion to compel, having complied with the procedures set forth in the settlement agreement entered into between themselves and the Trustee, in some way precluded the bankruptcy court from addressing whether the very contract they sought to compel the Trustee to assume and assign was even in existence. (Petition at 15.) The Seventh Circuit found this argument untenable for a fundamental reason Petitioners overlooked: the settlement agreement

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[6] Petitioners rely solely upon the Second Circuit's decision in *Orion Pictures Corp. v. Showtime Networks, Inc.*, 4 F.3d 1095 (2d Cir. 1993), for the apparent proposition that a bankruptcy court should not, in the context of resolving a § 365 motion to assume or reject contracts, decide the contract's enforceability. (Petition at 13.) The Seventh Circuit correctly distinguished *Orion's* principle in several respects. *First*, recognizing that courts have questioned the vitality of *Orion's* unduly restrictive approach to refrain from deciding contract enforceability in the context of a motion to assume or that contract. (A. 14-15, citing to *In re White Glove, Inc.*, Nos. 98-12493DWS, 98-12494WS, 1998 WL 731611, at *4 n.12 (Bankr. E.D. Pa. Oct. 14, 1998) ("The broad holding in *Orion* that a bankruptcy court may not in the context of a § 365 motion determine the validity of a contract before deciding whether to permit the trustee to assume it has been questioned by certain bankruptcy courts.") (citing to *In re III Enters., Inc.*, 163 B.R. 453, 459 n.4 (Bankr. E.D. Pa. 1994), *aff'd*, 169 B.R. 551 (E.D. Pa. 1994)); *Georgia Ports Authority v. Diamond Manufacturing Co., Inc.*, 164 B.R. 189, 202 (Bankr. S.D. Ga. 1994). *Second*, the Seventh Circuit (as did the district and bankruptcy courts preceding it) followed the long-held common sense approach that, when deciding if conduct is sanctionable, the merits of the claim at issue must necessarily be examined. (A. 16.) Petitioners have advanced no authority that holds contrariwise.

that Petitioners executed with the Trustee. (A. 211-279.) That agreement placed the propriety of the motion to compel the Trustee to assume contracts squarely in the *bankruptcy court's* hands. And, as the Seventh Circuit pointed out, that court "gave [Petitioners] a full opportunity to identify a basis on which the ADS agreement could be thought not to have expired..." (A. 17.) Petitioners offered no such "bases" below. (A. 17.)

Accordingly, both the district court and Seventh Circuit correctly endorsed the bankruptcy court's approach in having properly considered the expiration of the ADS Agreement as part of its inquiry when examining whether the Trustee should have been compelled to assume the ADS agreement. Further review of these well-reasoned decisions is unwarranted.

V. THE LOWER COURTS CORRECTLY REJECTED PETITIONERS' CLAIM THAT THE BANKRUPTCY COURT'S ORDERS CONSTITUTED A RENEWAL OF THE ADS AGREEMENT.

For the third time Petitioners maintain that the bankruptcy court's orders — which merely extended the time for the Trustee to assume or reject unexpired contracts — automatically morphed into a renewal of the ADS Agreement beyond its December 31, 2005, expiration date. As the lower courts noted, Petitioners manifestly distorted the plain and unambiguous meaning of the bankruptcy court's orders.

Petitioners' self-serving challenge suggesting that the bankruptcy court misinterpreted its own orders is facially empty. Below, Petitioners repeatedly failed to overcome the formidable deferential standard in place when seeking to overturn the manner in which the bankruptcy court construed its own orders. That is because the "court that issued an order is in the best position to interpret it." *Enodis Corp. v. Employers Ins. of Wausau (In re Consolidated Indus., Corp.)*, 360 F.3d 712, 176 (7th Cir. 2004). That construction is not to be disturbed absent a "clear abuse of discretion." *Id*; *accord*, *In re Optical Techs., Inc.*, 425 F.3d 1294, 1300 (11th Cir. 2005) (deferring to bankruptcy court's interpretation of its own orders "unless it clearly abused its discretion"); *see also In re Dial Bus. Forms, Inc.*, 341 F.3d 738, 744 (8th Cir. 2003) (adopting abuse of discretion standard and collecting cases from other circuits). Both the district court and Seventh Circuit abided by this settled proposition among the circuits. (A. 29; A. 17.) Petitioners advance no contrary authority.

With this highly deferential standard in mind, both the district court and Seventh Circuit examined the language of the bankruptcy court's orders, which only extended the time for the Trustee to move to assume or reject any unexpired, executory contracts. That examination yielded the same conclusion as that reached by the bankruptcy court: the orders were limited to the time in which the Trustee could assume or reject contracts. Neither the Trustee's motions to extend the time to assume or reject contracts, nor the language in any of the bankruptcy

court's orders, extended the renewal date of the ADS Agreement. (A. 17; A. 27-28.)

The bankruptcy court rejected Petitioners' position, finding its own orders having clearly stated that they never extended the deadline for renewing the ADS Agreement. The bankruptcy court noted that prior extension orders had carefully drawn the "distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated...." (A. 28, quoting, June 13, 2006 Tr. at 72 (S.A. 75).) The bankruptcy court recognized this distinction, remarking that "we're dealing with two separate issues (1) whether the contract has expired and (2) whether the time for assumption or rejection of the contract can be extended...." (A. 10 citing June 13, 2006 Tr. at 70 (S.A. 74).)

What's more, the bankruptcy court's own extension orders on their face could not have been clearer. Each Order confirmed that it was *not* to be construed as extending any previously expired Allied contracts, by providing that "nothing in this Order shall extend the rights to assume or reject any contract that has already expired or been terminated.... (A. 28; A. 8; A. 131.)

Perhaps most telling about Petitioners' arguments on this issue is that they have to purposely obfuscate the factual record in order to make their claim that the bankruptcy court orders extending the time to assume or reject contracts also extended the renewal date of the ADS Agreement. The key event surrounding the expiration of the ADS

Agreement was the Trustee's correspondence on November 16, 2005, seeking an extension of time to renew the ADS Agreement to December 31, 2005, and Allied's subsequent agreement to that request. (S.A. 1-3; S.A. 4-6.) This event is the linchpin on which the bankruptcy court's decision turns and it is the critical fact in both the district court and Seventh Circuit opinions. Yet Petitioners fail to even *mention* this correspondence in their factual recitation. Instead, Petitioners manufacture an argument that a November 8, 2005, motion to extend time to assume or reject contracts filed by the Trustee also acted as "an extension of the December 21, 2005, deadline to renew the [ADS] agreement." (Petition at 3-4.) Petitioner's representation is in direct conflict with the relief requested in the subject motion itself, which, as the Seventh Circuit correctly pointed out, "did not seek an extension of the life of the ADS agreement itself, only an extension of the time for the trustee to assume or reject that contract and the others listed in the motion." (A. 5; A 104.) Nor did the order granting that motion say anything about extending contract renewal dates. (A. 106-107.) Petitioners' decision to ignore completely the letter agreement between the Trustee and Allied, which *did* briefly extend the renewal deadline of the ADS Agreement and, instead, mischaracterize other orders entered in the case speaks volumes about the merits of their petition.

As put succinctly by the district court below: "Everyone but [Petitioners], it seems, understood the effect of the extension orders." (A. 28-29.) Petitioners' latest — and third —attempt to distort the bankruptcy court's orders into something they

clearly are not offers no basis for this Court's further review.[7]

VI. THE LOWER COURTS CORRECTLY REJECTED THE CONTENTION THAT ALLIED SHOULD HAVE BEEN "ESTOPPED" FROM MAINTAINING THAT THE ADS AGREEMENT EXPIRED.

Petitioners recycle their argument made and rejected below by both the district court and Seventh Circuit, which asserts that somehow Allied's conduct in the bankruptcy proceeding should have "estopped" them from taking the position that the ADS Agreement had already expired by the time Petitioners sought to compel the Trustee to assume or reject that agreement (Petition at 12-13.) But, as

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[7] To support review, Petitioners cite one case, a twenty-year-old Connecticut bankruptcy court decision of *M.K. Labs., Inc. v. Int'l. Developers (In re M.K. Lab., Inc.)* 86 B.R. 12 (Bankr. D. Conn. 1988) (Petition at 11), for the proposition that the bankruptcy court extension orders "constitute[d] a renewal of the ADS Agreement...." (*Id.*) The Seventh Circuit squarely rejected *In re M.K. Labs* as being applicable, reasoning that "[c]ontrary to [Petitioners'] contention, this is not a case like [*M.K. Labs., Inc.*], where the parties on two occasions, in stipulating to an extension of the debtor's time to assume or reject an unexpired lease, recited that the lease still had eleven more years to run...". (A. 19.) The Seventh Circuit noted that "[h]ere, there is no such manifestation of a shared belief as to the continued life of the ADS agreement." (A. 19.) Indeed, the bankruptcy court's own orders expressly acknowledged and reserved Allied's right to argue that the ADS agreement had, in fact, lapsed. (A. 8; A. 133.) Other than the ill-fated *In re M.K. Labs.*, Petitioners cite no other authority demonstrating why the Seventh Circuit erred in reaching its decision.

the Seventh Circuit held, "the record bespeaks the contrary." (A. 20.) Nothing in the petition alters that conclusion warranting this Court's intervention, especially given that the substantive law applicable to estoppel in these proceedings is state created, not federal. *See Travelers Cas. & Sur. Co. of Am. v. Pacific Gas & Elec. Co.*, 549 U.S. 443, 127 S. Ct. 1199, 1205 (2007) ("we have long recognized that the 'basic federal rule' in bankruptcy is that state law governs the substance of the claims, Congress having 'generally left the determination of property rights in the assets of a bankruptcy estate to state law.'") (citations omitted); *see also R & B Kapital Dev., LLC v. North Shore Cmty Bank & Trust Co.*, 832 N.E.2d 246, 255 (Ill. App. Ct. 2005) (under Illinois law, a party claiming estoppel must prove "a clear, unequivocal, and decisive act...manifesting an intention to waive its right" to enforce an agreement) (citation omitted). And, to the extent the decisions below rested upon adequate and independent state grounds in addressing Petitioners' "estoppel" argument, it is settled that review before this Court is impermissible. *See, e.g., Michigan v. Long*, 463 U.S. 1032, 1041-42 (1983).

Allied consistently took the position before the bankruptcy court that the extensions of time for the Trustee to assume or reject contracts could have no impact on the separate issue of whether the ADS Agreement expired by its own terms. The bankruptcy court agreed and rejected Petitioners' attempted application of estoppel against Allied:

> No, you're not going to find anything, I am confident, in the record where [Allied's] counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. **They've [Allied] been here vociferously arguing for a substantial period of time that the [ADS] agreement had terminated. And entering an order granting the trustee a right to continue the time for assumption or rejection had no impact on that....**

(A. 12; A. 29.) Petitioners point to no evidence below that contradicts the bankruptcy court's finding. Moreover, the bankruptcy court orders entered *after* the ADS agreement expired on December 31, 2005, negate any notion that Allied might have taken inconsistent positions, as they expressly provide that nothing "[herein] shall extend the right to assume or reject any contract that has already expired...." (A. 8; A. 28; A. 133.)

While Petitioners maintain, in direct conflict with the bankruptcy court record, that "Allied sat on its hands" by not objecting to the Trustee's motion to extend time to assume or reject contracts, (Petition at 12), the Seventh Circuit squarely rejected this assertion, finding it incredible based on the undisputed evidentiary record. Instead, the Seventh Circuit addressed Petitioners' estoppel argument by holding "[t]he notion that Allied somehow sat on its

rights and could be precluded from arguing that the ADS agreement expired is untenable." (A. 20.) Nothing in the Seventh Circuit's careful analysis warrants being disturbed.

CONCLUSION

The petition of Chiplease, Inc. and Scattered Corporation for certiorari fails to satisfy any of the recognized grounds for discretionary review. Their constitutional due process claims were waived by not raising them at any time below, and the remaining arguments have either been waived or rejected by three prior federal court decisions. The petition should be denied in its entirety.

Dated: October 27, 2008

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Re: Resource Technology Corporation
Sites at Clarion, Paxton, Pontiac,
Wheatland and Wyandot
99 B 35434

Dear Arlene:

As you are aware, the contract extension dates with respect to the above-noted properties are November 21, 2005. The Trustee would like to enter into an agreement by and between you and your relevant clients to have that extension date, pursuant to the contract, continued through December 31, 2005. We entered into a similar agreement with respect to same with Mr. Munitz and his client, American Grading Company with respect to the McCook facility. A copy of the Order relating to same is attached herewith.

The Trustee believes that it is in the Estate's best interest to not execute a five year extension with respect to the above-noted facilities and would prefer, as we have been working together, to enter into a short term extension to preserve everyone's interest in these properties.

Your cooperation is appreciated. Please do contact me as soon as possible with respect to this matter.

Very truly yours,

/s/ Barry Chatz
Barry A. Chatz

BAC:jbm
enclosure
cc Jay Steinberg

Pursuant to Internal Revenue Service guidance, be advised that any federal tax advice in this communication, including any attachments or enclosures, was not intended or written to be used, and it cannot be used, by any person or entity for the purpose of avoiding penalties imposed under the Internal Revenue Code.

Gelman, Arlene N.

From: Gelman, Arlene N.
Sent: Saturday, November 19, 2005 9:36 AM
To: 'Chatz, Barry A.'; O'Meara, Robert S.
Cc: bankruptcytrustee-receiver@lepetomaneinctrustee.com
Subject: RE: Resource Technology

Dear Barry:

In response to your letter of November 16, 2005, American Disposal Services, Inc. and Allied Waste Industries, Inc. (collectively "Allied"), hereby agree to extend the contract renewal date for the Pontiac Landfill (a/k/a Livingston Landfill) portion of the December 21, 1995 contract between Allied and RTC from November 21, 2005 to December 31, 2005.

As you are aware, Allied maintains that the Wyandot, Wheatland and Clarion landfill portions of the December 21, 1995 contract between Allied and RTC have all been validly terminated. In an effort to maintain the status quo with regard to the Wyandot, Wheatland and Clarion landfill portions of the December 21, 1995 contract between Allied and RTC, Allied agrees that only to the extent that RTC possesses any remaining contractual rights to or at those sites such rights may be extended from November 21, 2005 to December 31, 2005. Nothing in this letter is intended to, nor shall it, waive or release any right, claim or cause of action of any kind that Allied has that the Wheatland, Clarion and Wyandot portions of the December 21, 1995

contract were validly terminated by Allied prior to the date of this letter and, furthermore, nothing in this letter agreement shall be deemed an admission by Allied that RTC has any remaining contractual rights to or at the Wyandot, Wheatland and Clarion landfill sites under the December 21, 1995 contract.

Thanks, Arlene

----Original Message----
From: Medziak, Jurate B. [mailto: JBMedziak@arnstein.com]**On Behalf Of** Chatz, Barry A.
Sent: Wednesday, November 16, 2005 2:48 PM
To: Gelman, Arlene N.
Cc: Chatz, Barry A.; bankruptcytrustee-receiver@lepetomaneinctrustee.com
Subject: Resource Technology

Attached is correspondence with respect to extensions on contract dates.

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Pursuant to Internal Revenue Service Guidance, be advised that any federal tax advice in this communication, including any attachments or enclosures, was not intended or written to be used, and it cannot be used, by any person or entity for the purpose of avoiding penalties imposed under the Internal Revenue Code.

****

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)
	) No. 99 B 35434
RESOURCE TECHNOLOGY CORP.,	)
	)
	) Chicago, Illinois
	) June 13, 2006
Debtor.	) 10:00 a.m.

TRANSCRIPT OF PROCEEDINGS BEFORE THE
HONORABLE EUGENE R. WEDOFF

APPEARANCES:
MR. JAMES NEWBOLD
on behalf of the State of Illinois;

MR. MARK LEIPOLD
on behalf of certain employees;

MR. JON VIGANO
MR. GENE GEEKIE
on behalf of Network Electric Company;

MR. GERALD MUNITZ
on behalf of American Grading Company;

MR. CAMERON GOODMAN
on behalf of Solar Turbines;

MR. BRADLEY SMITH
on behalf of Jenbacher, Limited;

MS. SARA LORBER
on behalf of the City of Corpus Christi;

MS. KATY GLEASON
on behalf of the United States Trustee;

MR. JAY STEINBERG
Chapter 7 trustee;

MR. BARRY CHATZ
MS. MIRIAM STEIN
on behalf of the trustee;

MR. GREGORY JORDAN
MR. PETER SCHMIDT
for Banco PanAmericano, Chiplease, Scattered, and Leon Greenblatt;

MR. BRUCE WALD
MR. JEFF ROSE
on behalf of Ungaretti & Harris;

MR. CHRIS REXROAT
Ungaretti & Harris;
MS. CHRISTINE CHILDERS
on behalf of Commonwealth Edison Company;

MS. LINDA KUJACA
on behalf of the City and County of Peoria;

MR. DAVID BOHAN
MS. ARLENE GELMAN
on behalf of Allied Waste and American Disposal Services;

MR. PHIL COMELLA
MR. DAVID LEIBERMANN (TELEPHONICALLY)
on behalf of Rosencranse and Congress Development.

THE CLERK: Resource Technology, 99 B 35434.

THE COURT: Okay. Mr. Leiberman, you can give me your appearance, if you would, please.

MR. LEIBERMAN: David Leiberman on the objection to the motion to compel.

THE COURT: All right. Mr. Leiberman, let me tell you right now there is no way that you're going to be able to hear all of the appearances of counsel. When we get to substantive matters, I'll ask counsel, to the extent possible, to speak into a microphone so that you can hear what's going on. But there are far too many people here to ask that that be done at this point. And I do notice that you may have co-counsel here in court, so it may not be as critical as it would be otherwise.

In any event, we'll begin with the appearances of the attorneys in the courtroom.

MR. PARTEE: Good morning, Your Honor. Michael Partee on behalf of the State of Illinois.

MR. NEWBOLD: James Newbold for the State of Illinois.

MR. LEIPOLD: Mark Leipold for certain employees.

MR. VIGANO: Good morning, Your Honor. Jon Vigano and Gene Geekie on behalf of Network Electric Company.

MR. MUNITZ: Good morning, Judge Wedoff. Gerald Munitz for American Grading Company.

MR. GOODMAN: Cameron Goodman on behalf of Solar Turbines.

MR. SMITH: Bradley Smith on behalf of Jenbacher, Limited.

MS. LORBER: Sara Lorber on behalf of the City of Corpus Christi.

MS. GLEASON: Katy Gleason on behalf of the United States Trustee.

MR. STEINBERG: Good morning, Your Honor. Jay Steinberg, Chapter 7 trustee.

MR. CHATZ: Barry Chatz and Miriam Stein for the trustee.

MR. JORDAN: Gregory Jordan and Peter Schmidt for Banco PanAmericano, Chiplease, Scattered, and Leon Greenblatt.

MR. WALD: Bruce Wald and Jeff Rose on behalf of Ungaretti & Harris.

MR. REXROAT: Chris Rexroat, Ungaretti & Harris.

MS. CHILDERS: Christine Childers on behalf of Commonwealth Edison Company.

MS. KUJACA: Linda Kujaca on behalf of the City and County of Peoria.

MR. BOHAN: David Bohan, Your Honor, on behalf of Allied Waste and American Disposal Services.

MS. GELMAN: Arlene Gelman also on behalf of Allied and American Disposal.

MR. COMELLA: Phil Comella for Rosencranse and Congress Development. Good morning.

THE COURT: Okay. Again, I think the best thing might be simply to go through the items as they're listed on the call.

The first is the trustee's application to employ Joseph A. Friedman and Kane Russell Coleman & Logan PC as special counsel. Any objection to that?

MR. CHATZ: No, Your Honor.

THE COURT: The motion is granted.

MR. CHATZ: Thank you.

THE COURT: Next is a motion by Ungaretti & Harris to extend the date for their filing an administrative claim.

MR. WALD: Your Honor, we would ask that that be continued to the settlement. If the settlement is granted, it would be mooted.

THE COURT: Well, I can tell you right now –

MR. CHATZ: Grant the motion.

THE COURT: -- as far as I know, there is no settlement. I asked to be able to review the settlement agreement, and the latest information I got was that it hadn't been drafted.

MR. CHATZ: I don't think Your Honor –

THE COURT: Are we talking about a different agreement?

MR. WALD: Ungaretti & Harris' settlement with the trustee. It's been briefed and motioned and –

MR. JORDAN: Right. I think I got -- I was involved in the same e-mail string. And I think Mr. Chatz said that there was no settlement agreement. It was just a motion.

MR. CHATZ: I don't think there is anything other than what's in the motion that's part of the settlement. We could draft a settlement agreement that basically states what's in the motion, Your

Honor. It's an allowance of a claim and payment of certain amounts.

THE COURT: Look, all that a motion can do is seek court approval of a settlement. Now, if you're going to tell me that the motion is the settlement, that's an interesting proposition. It's not the way things are generally done. Maybe that's the way you proceeded here, but that wasn't clear to me. What I wanted to do is to review an actual settlement agreement. There is none?

MR. CHATZ: Correct.

THE COURT: The motion is the settlement?

MR. CHATZ: Yes.

THE COURT: All right.

MR. CHATZ: And if Your Honor seeks –

THE COURT: No, no, no, that's – that wasn't clear to me at all. But that's fine. We'll keep going down the list then. We'll pass this one.

We now have a number of motions to compel the trustee to seek assumption. And what I'd propose to do is just go through each of these one by one, unless there is some overall resolution that's been arrived at since the time these motions were filed.

MR. STEINBERG: Unfortunately not.

THE COURT: Okay. Well, then we're going to do that. And hold on because I'm going to want to get my notes before we do it.

Okay. First is the motion with respect to the City of Columbus.

MR. JORDAN: We filed a motion to compel. They didn't respond, Your Honor.

THE COURT: And –

MR. JORDAN: I think that there is sufficient basis set forth in our motion, and ask that the trustee be compelled to proceed with the assumption and assignment of the Columbus contract.

THE COURT: Did you serve the City of Columbus?

MR. JORDAN: We served counsel at the time. I think subsequently counsel withdrew, but they had counsel at the time.

THE COURT: So counsel withdrew. The city would have been here without –

MR. JORDAN: We did this before, we would have served before. And we also served counsel that withdrew because that's all we know. There is no one else who has appeared in the case. We presumed, reasonably, that they would forward that on to their client. But the motion to compel to which they would have responded, they had counsel at the time, as I recall. And that counsel certainly either

would have filed a response or advised their client that they should obtain counsel to file the response. It's not up to us to make sure that counsel -- that Columbus has counsel. It's up to us to provide notice, which we did.

THE COURT: The underlying question with all of these is whether the trustee is reasonably asserting that to pursue a motion here would violate the trustee's obligations under Rule 9011, and so the question here is whether the trustee has a good basis for believing that pursuing an assumption here would violate Rule 9011. Now, on this particular one, I don't know what basis the trustee has for believing that there would be a violation of Rule 9011 to pursue assumption of this contract.

MR. JORDAN: At least from my conversation with the trustee, if there is any dispute at all, I think he just wants to get compelled.

MR. STEINBERG: I can't really have it that way. I got to have a good faith belief that pursuing it would subject the estate to sanctions.

THE COURT: That's right. You've got to state a basis for that --

MR. STEINBERG: Right.

THE COURT: -- good faith belief. What's the basis?

MR. CHATZ: A good faith belief, Your Honor, was that -- it's my recollection when Columbus was

represented by counsel that there was a hearing and trial regarding that during the 11. And I believe there may have been a ruling that there was no assumption or –

THE COURT: But this –

MR. CHATZ: -- termination –

THE COURT: -- is not going –

MR. CHATZ: -- or otherwise.

THE COURT: -- to do it. You can't come into court and tell me orally that it's your recollection that there may have been a trial and might have been an order. You have to set that out in response to this motion to compel assumption.

MR. CHATZ: We expected all of the parties, as most of them did, to file responses. So –

THE COURT: Okay. If it –

MR. CHATZ: -- Columbus –

THE COURT: -- was your –

MR. CHATZ: -- Georgia –

THE COURT: -- intention –

MR. CHATZ: -- hasn't.

THE COURT: If your intention was to rely on the City of Columbus and you didn't have to do anything more here, I think that was in error, because in the absence of any response to this particular motion that sets out a basis for a trustee's good faith belief that would violate Rule 9011 to pursue assumption here, I'm going tc grant the motion and compel assumption -- compel the trustee to go --

MR. CHATZ: To seek –

THE COURT: -- forward with --

MR. CHATZ: That's fine. We're happy to seek to –

THE COURT: Okay.

MR. CHATZ: -- go forward with assumption and –

THE COURT: Okay.

MR. CHATZ: -- assignment. They will have to provide cure. And we will assure that the City of Columbus has notice –

THE COURT: Okay.

MR. CHATZ: -- of that.

THE COURT: So this motion is granted.

MR. JORDAN: Thank you, Your Honor.

THE COURT: Next is the motion with -- excuse me. It's a motion for leave to file a reply. Any objection to that?

MR. CHATZ: No, Your Honor.
THE COURT: All right. That's granted.

THE CLERK: Mr. Jordan –

MS. LORBER: I'm sorry. Which with respect –

MR. CHATZ: Corpus Christi.

MR. JORDAN: Corpus Christi.

MR. STEINBERG: Corpus Christi.

MS. LORBER: Your Honor, I don't have any objection to there being an extension of time to the reply. What I am worried about is that there are going to be rulings here today that may affect the ruling with respect to our contract, and that is I think importantly what the meaning of the designation of rights agreement says. And –

THE COURT: Well, then you might want to be heard on any of those that –

MS. LORBER: I certainly –

THE COURT: -- might have –

MS. LORBER: -- do want –

THE COURT: -- an impact –

MS. LORBER: -- to be heard –

THE COURT: -- on that.

MS. LORBER: -- on that issue.

THE COURT: That's fine.

MR. CHATZ: So there –

THE COURT: Okay.

MR. CHATZ: -- will be –

THE COURT: Next –

MR. CHATZ: -- no determination –

THE COURT: -- number 47, is a motion of American Grading for relief from stay.

MR. JORDAN: We oppose that, Your Honor. In fact, the whole issue of compelling American Grading, what American Grading is attempting to do is to change the status quo by having – seeking broad relief. They're not seeking to repair. They're seeking to replace, to renovate, to do anything that they wish to do.

What I would propose is that we can take the risk and have someone go out under the supervision of American Grading and repair the wellheads. I would point out the only reason that there is any

disrepair is American Grading hasn't allowed people to go onto the site based upon its position.

But we don't want to change the status quo. We feel very good about our position with regard to the proper extension of the contract. And if they are allowed to go and change the status quo, it could do serious problems to the assumption and assignment process.

THE COURT: We should probably talk about this in connection with the motion to compel the trustee to go forward with the motion to assume the American –

MR. JORDAN: I think –

THE COURT: -- Grading –

MR. JORDAN: -- that's a –

THE COURT: -- contract.

MR. JORDAN: -- a great idea.

MR. MUNITZ: Yeah.

THE COURT: And the issue here is whether there was any action taken by RTC by someone with authority to take action on behalf of RTC that would have had the effect of extending the contract between RTC and American Grading.

MR. JORDAN: That's clearly a question of fact because –

THE COURT: Well, I'm not sure there is. The trustee has asserted that John Connolly, who is the only one that the Greenblatt entities are asserting took any action that would be effective to extend the contract, had no authority to act on behalf of the trustee. So the only factual dispute I can see is whether Mr. Szilagyi is telling the truth in connection with that, that he –

MR. JORDAN: That's a big issue.

THE COURT: All right. Well, if –

MR. JORDAN: And that's –

THE COURT: -- you want –

MR. JORDAN: -- an issue that we think will go up -- come out against Mr. Szilagyi.

THE COURT: Okay. Now, but, again, let's put this in the proper procedural context. The question is whether the trustee has a reasonable basis for declining to go forward in the motion to assume. If the only evidence here, the only positive evidence bearing on the question of -- well, I suppose if Mr. Connolly is going to testify that, in fact, Mr. Szilagyi did authorize him to send this letter, then I suppose there is a – there is no good faith basis for failing to go ahead with a hearing on that question.

MR. JORDAN: I would tend to agree. And I think that's what -- it's an evidentiary question, and it's a documentary question, and both the evidence and the documents support our position.

MR. MUNITZ: Your Honor, I think there is both a legal and factual distinction to be drawn now, but I don't wish to interrupt your call. If you want to pass this until the...

THE COURT: Well, I think what's going to happen here is that -- I believe there is little question that if Mr. Connolly was authorized by the trustee to send the letter extending the contract, that that would have been effective to extend the contract. The date of the letter I think is sufficient to do that, or at least there is a good faith argument that the date of the letter was sufficient. So I think that this is one where the trustee under his contract with the Greenblatt entities would be required to go forward. That makes the motion for relief from stay one that is relevant for me to consider now.

MR. MUNITZ: Your Honor, may I return to the renewal issue? We respectfully submitted and filed a memorandum to that effect, that the crucial determinative factor should be how Trustee Steinberg viewed the American Grading contract. And Trustee Steinberg always viewed it that it had not been renewed; that if it had been renewed, Trustee Szilagyi had repudiated that renewal; and that as a result of court-approved agreements and other extensions, Trustee Steinberg agree that noon on January 5th of 2006 would be the date by which he had to exercise the renewal option, and for valid reasons on that date he chose not to do so.

THE COURT: Okay. But if –

MR. MUNITZ: Furthermore –

THE COURT: If –

MR. MUNITZ: -- Your –

THE COURT: Wait a second. If the contract had already been renewed, what effect would his agreements and his failure to act pursuant to those agreements have had on the property of the estate?

MR. MUNITZ: Your Honor, a legal issue. We briefed in our memorandum that unless Mr. Connolly is going to come forward with a written document, the rule of law with respect to implied or apparent agency –

THE COURT: We're not talking about applied or impaired. I agree with you, that won't work. What would have to happen here is actual authority. The person who would be entitled to rely on apparent authority is American Grading.

MR. MUNITZ: Is exactly the point –

THE COURT: And American –

MR. MUNITZ: -- we made –

THE COURT: -- Grading doesn't –

MR. MUNITZ: -- in our memorandum.

THE COURT: -- want to.

MR. MUNITZ: Yes.

THE COURT: So that's not an issue. The question here is actual authority. And what Mr. Connolly is asserting is that he had actual authority from Mr. Szilagyi to extend the contract on behalf of RTC. Mr. Szilagyi has denied that. There is a conflict on that question, but it would not be bad faith for the trustee in the Chapter 7 case to pursue the claim that the contract had been extended by virtue of Mr. Connolly's letter given with actual authority. There is a sufficient factual basis in Mr. Connolly's assertions to go forward with that in good faith. So an assertion that it would violate Rule 9011 to go forward on this would not have any basis in my judgment.

There are a lot of factors to be taken into consideration in deciding that evidentiary question. But I think that if there was actual authority to extend, and if there was an actual extension, then the subsequent conduct by Mr. Steinberg would not have an effect on that extension. So that's not decided on the merits today.

But what is decided is that the trustee's assertion, Mr. Steinberg's assertion of a 9011 bar to going forward with this is not in existence. I will grant the motion to require the trustee to go forward with this. But, as I say, that leaves open the question of whether there is a need for relief from stay right now.

And if you'd like to address that, Mr. Munitz, I'd be happy to hear it.

MR. MUNITZ: Your Honor, if there was ever a matter in which a picture is worth a thousand words, it is the motion that we have before you to modify the automatic stay. The gas-generating equipment is in a state of ultimate disrepair. There is some methane exposure currently at the premises. As Your Honor knows, the premises has been declared to be in violation of applicable Illinois law. We think we need the right to go in and do something to try to mitigate the potential problem. And in view of Your Honor's ruling, then we would ask that the stay be modified. We would undertake to work with both the State of Illinois and the Chiplease interests in what is being done. But some action should be taken at this time, although I will be requesting a very prompt trial date, Your Honor. I can envision it may be limited to two witnesses, Mr. Szilagyi and Mr. Connolly. But also, Your Honor, I'd like to, you know –

THE COURT: Okay. Well, let's address this question of relief from stay. Mr. Jordan?

MR. JORDAN: Your Honor, I think the opposite should occur. I don't think that American Grading should go forward, because if they did something and it impaired the estate's rights, then there would be potentially damages. There could also be costs that may change the status quo with the assumption and assignment. If, on the alternative, instead of American Grading working with the State of Illinois and working with Chiplease, Chiplease was required to do the work, working with American Grading, and then working with the State of Illinois, if it was out the money,

well, then just too darn bad for them. They made a ball call. They didn't get to assume the contract, and they're out of luck and they're out of money.

THE COURT: Well, let –

MR. JORDAN: If on the –

THE COURT: Let me –

MR. JORDAN: -- other hand –

THE COURT: Let me just interrupt.

MR. MUNITZ: Your Honor, they're --

THE COURT: Is --

MR. MUNITZ: -- the people --

THE COURT: Is --

MR. MUNITZ: -- who caused --

THE COURT: -- there --

MR. MUNITZ: -- the problem.

THE COURT: Is there --

MR. JORDAN: No. You are --

THE COURT: Is there --

MR. JORDAN: -- the people who --

THE COURT: Is there --

MR. JORDAN: -- caused the --

THE COURT: -- a need --

MR. JORDAN: -- problem.

THE COURT: -- for remedial action now?

MR. JORDAN: Probably because American Grading has refused to allow people to maintain it, there may be. I don't know. To the extent that the people who have been maintaining the site up until they were locked out can go on, they can probably make some simple fixes and do that on -- under the aegis of RTC, under the cost payment –

THE COURT: All right. What I'm going to do is --

MR. JORDAN: -- Chiplease.

THE COURT: What I'm going to do is to continue this motion to tomorrow and ask the parties to see if they can agree on what action ought to be taken immediately. And we'll set a hearing on the question of whether the contract was assumed or not as quickly as possible. I think, given the amount of time that the parties have spent looking into this question, there shouldn't be any need for a prolonged --

MR. JORDAN: There are --

THE COURT: -- time.

MR. JORDAN: -- some depositions that need to --

MR. MUNITZ: Your Honor --

MR. JORDAN: -- be taken.

MR. MUNITZ: -- RTC is not the party in interest. It is Mr. Steinberg as trustee. He's -- and it has been his choice since January the 5th not to set foot on our premises. So I think the dealing should be between the trustee and my client, if we would, as I said, invite RTC to participate. I don't know what role they would like to play other than maybe come up with the money.

MR. JORDAN: Your Honor, we need to take a couple of depositions, obviously. We can take those depositions. We can't do that this week, given my schedule. We can come back for a hearing with regard to the motion for relief from stay if someone can be allowed to go on site today for American Grading. They're locked out. And contrary to what Mr. Munitz says, he hasn't allowed the trustee onto the site since January 4th. So there is nothing causing this problem on RTC's side. So if we can have the authority to send somebody out to look at the site today, we can come back tomorrow and talk about the motion for relief from stay.

MR. STEINBERG: It's clear someone should investigate the site. The photos are a little scary, Your Honor.

MR. MUNITZ: Have you ever been denied access to the premises?

MR. STEINBERG: I have personally not been denied access.

THE COURT: Have you sought it?

MR. STEINBERG: Mr. Connolly has and other people have, and they've been denied access.

THE COURT: And you authorized them to seek access?

MR. STEINBERG: In their normal duties, they were supposed to get access to make sure things like this don't happen.

MR. JORDAN: And he denied them.

MR. STEINBERG: I did not pursue it beyond Mr. Munitz' -- excuse me, client's denial of their access. They wanted to get in, they didn't get in. We're in the middle of a severe disagreement. But now, based on the photographs, I think it has to be looked at physically.

THE COURT: All right. Come back tomorrow.

MR. JORDAN: What time, Your Honor?

THE COURT: What time do we have available tomorrow? I guess the whole day is available.

I would suppose that you might prefer to come back in the afternoon so you have a little more time to prepare for the hearing. 1:30?

MR. JORDAN: You know, is it possible – of course I'd like to have time to -- we have a 2:00 o'clock hearing in front of Judge Cox, so late morning would be fine. That would potentially give somebody the right to go out there this afternoon, take a look, follow-up tomorrow morning, and be here at 11:00.

THE COURT: 11:00 o'clock is fine with me.

MR. CHATZ: That's fine.

MR. PARTEE: Your Honor, Michael Partee on behalf of the State of Illinois. Could I be heard very briefly on this?

THE COURT: Well, I don't think anybody is going to disagree with what you're suggesting, which is something needs to be done.

MR. PARTEE: Exactly.

THE COURT: So that's why I'm trying to do it as quickly as possible.

MR. PARTEE: Okay. I can't be here tomorrow. I just wanted to get that point across, that --

THE COURT: I think that's not in dispute.

MR. PARTEE: Very good.

THE COURT: So the question is only going to be who and what. But definitely there will be remedial work that's authorized one way or the other.

MR. STEINBERG: Your Honor, I plan on going out there with someone from Environ, my consultant, to exactly see what's there. I'll clear with Mr. Munitz what time is appropriate.

THE COURT: Okay. This motion is continued to 11:00 o'clock.

The motion to compel the trustee to move forward with the assumption is granted and -- we'll have to find it. These -- well, and they aren't in any logical order, unfortunately. But I think -- well, we'll get to it. Let's just keep going through them in order. I think that's the only way to make sure that we cover them all.

So the motion for relief from stay is being continued for hearing to tomorrow at 11:00 o'clock.

MR. JORDAN: All right. Thank you, Your Honor.

Are we going to -- the trustee going to be able to get out to the site today, Mr. Munitz?

MR. MUNITZ: If he makes arrangements.

MR. STEINBERG: I will make arrangements.

THE COURT: The next is trustee's motion to extend the time for filing objections to Chapter 7 administrative claims.

MR. CHATZ: I believe that this only relates to the 11 claims, Judge. So if you could grant this. I don't believe there is an objection.

THE COURT: All right.

MR. CHATZ: You filed objections --

THE CLERK: What date? It's blank in the order.

MR. CHATZ: We need to set a date for a bunch of things. Maybe we can --

MR. STEINBERG: Pick a date.

MR. CHATZ: -- pick a date 60, 90 days out on that one. Probably 90 days. I'm not going to be worried about 11 claims at all.

THE COURT: September 12th.

MR. CHATZ: Thank you.

MR. JORDAN: I'm sorry. What date was that?

MR. STEINBERG: September 12th.

MR. JORDAN: September 12th?

MR. CHATZ: Yes. Thank you, Your Honor.

THE COURT: Next is the motion to assume agreements. These are the ones that the trustee has acknowledged an obligation to go forward on. To what extent do we have opposition to this motion, number 49 on the agenda?

MR. GOODMAN: Your Honor, Cameron Goodman for Solar Turbines. We filed an objection to this motion on 5/12, and we received no response from the trustee.

THE COURT: Well, let me just say with respect to this and with respect to any motions that the trustee is making to assume and assign executory contracts, we need to set out a schedule for the resolution of any objections that are being made. There are several grounds on which objections could be made: That the contract has already terminated; that the trustee cannot cure; that the trustee cannot provide assurance of future performance. All of those grounds would be available. And what I need to do is have a schedule to resolve them that's consistent. Now, we could try to do that in open court.

MR. JORDAN: Your Honor –

THE COURT: My great preference would be if the parties could try to work something out outside of court, because a scheduling conference of this sort done on the record is likely to take a great deal of time and involve a lot of argument.

MR. JORDAN: The designation rights agreement set forth time periods within which to make objections. Now, the parties to whom – other than the parties that objected with regard to the motion to compel –

THE COURT: Do you have –

MR. JORDAN: -- Ottawa –

THE COURT: -- a list of the –

MR. JORDAN: Ottawa, Commonwealth Edison, who filed yesterday, and I'm not sure that we wouldn't object that that's not timely, Solar, DTE Biomass, although we're not seeking to assume and assign any contracts related to DTE Biomass. Those were the only parties of whom I'm aware -- and the State of Illinois. Excuse me.

MS. GELMAN: Your Honor, I think that we also have a couple of more sites that we objected to.

MR. CHATZ: There is Litchfield.

MS. GELMAN: Litchfield.

MR. CHATZ: I agree with Your Honor. What I think we need to do is come back to you with a scheduling order on everything that's in dispute.

THE COURT: Okay. You've got the parties here.

MR. CHATZ: Right.

THE COURT: And I expect -- although I'm going to be conducting some more proceedings here, I have no doubt that Judge Doyle's staff would be happy to open up her courtroom. I'd invite the parties to go next door and see if you can work something out. And then you can come to me tomorrow morning with a schedule of hearings on all the matters that are in dispute.

MR. STEINBERG: Could we –

MR. JORDAN: I just want to -- I just wanted to make sure I understand so that when we're talking amongst ourselves, it makes sense. As far as the contracts to whom no -- to which no one –

THE COURT: If nobody –

MR. JORDAN: -- has objected –

THE COURT: -- has objected to a motion to assume and –

MR. STEINBERG: Bring an order.

THE COURT: -- assign, I'm going to grant that motion this morning.

MR. STEINBERG: Right.

MR. JORDAN: Okay. And then there are a number of other contracts to which we have compelled -- Ms. Gelman being there reminds me of that -- which we haven't dealt with today. Are we

going to go meet, schedule, and then come back and talk about those, or set those for another day?

THE COURT: I would expect that if you can arrive at an agreed schedule, that would be my real preference. What I would like you to come back with tomorrow is a chart showing what contracts are in dispute and what dates the parties have suggested for a resolution.

MR. JORDAN: Okay.

MR. CHATZ: The only open issue, and I wish to interrupt Mr. Jordan a second --

MR. JORDAN: Feel free.

MR. CHATZ: -- there is the issues about what the trustee is going to be compelled to do.

MR. JORDAN: Right.

MR. CHATZ: Everything else is under the motions to assume. There is other motions, I assume you --

THE COURT: We'll get --

MR. CHATZ: -- know --

THE COURT: -- to them --

MR. CHATZ: -- and we'll --

THE COURT: -- in the --

MR. CHATZ: -- get to those.

THE COURT: -- ordinary course.

MR. CHATZ: Good.

THE COURT: And to the extent that the trustee is compelled to go forward and there are objections, well, then obviously we'll deal with those as well. And if --

MR. CHATZ: And what --

THE COURT: -- you can include those in the order, the --

MR. STEINBERG: Chart.

THE COURT: -- list that you give me tomorrow, the chart you give me tomorrow, that would be ideal.

MR. CHATZ: We should be handing you orders in that regard. But such things like the McCook matter where you've compelled us to go forward in Columbus, Georgia, we're going to need to now file a motion --

THE COURT: Yes.

MR. CHATZ: -- regarding those and --

THE COURT: But if you -- if the parties are here –

MR. CHATZ: Okay.

THE COURT: -- and you can talk about when you'd present that and how --

MR. STEINBERG: A hearing dated.

THE COURT: -- a resolution of that matter --

MR. CHATZ: That's fine.

THE COURT: -- might fit into the schedule that you're going to be proposing tomorrow, I would be very --

MR. CHATZ: Terrific.

THE COURT: -- happy to --

MR. CHATZ: Thank you, Your Honor.

THE COURT: -- consider it.

MR. STEINBERG: And tomorrow we'll set hearing dates once you see the chart --

THE COURT: That's --

MR. STEINBERG: -- appropriately.

THE COURT: Exactly.

MS. LORBER: Your Honor, I --

MR. CHATZ: Thank you.

MS. LORBER: -- think that something needs to be clarified as to what are the issues before the court on the motions to compel. Are we going -- based on the court's rulings with respect to the McCook contract, it seems to be whether there is a factual -- that if -- it may be whether there is an issue as to whether there is a --

THE COURT: The question is --

MS. LORBER: -- termination. I don't want to go forward on a hearing on termination. We have --

THE COURT: Hold on just a second. I hoped I had made this pretty clear before, but let me try one more time in case I didn't. As I understand the settlement that the trustee entered into with the Greenblatt entities, the trustee agreed to assume and assign all executory contracts designated by the Greenblatt entities for that purpose. The trustee reserved the right to decline to assume or – seek to assume or assign a contract specified by the Greenblatt entities if to do so would, in the trustee's reasonable judgment, violate Rule 9011.

So the question now is whether there is a reasonable basis for the trustee to assert that going forward with a particular matter would violate Rule 9011. As to the matters on which I have just ruled, I have found that there was not a reasonable basis shown by the trustee for declining to go forward with the motion to assume and assign. All that means is that the trustee is going to have to, pursuant to the settlement agreement, file a motion to assume or assign. The trustee, I'd expect through Mr. Jordan,

will be presenting evidence in support of that motion. But I'm not ruling on the merits of the motion at all. I'm merely finding that based on what was presented to me, there has not been a showing --

MR. STEINBERG: Right.

THE COURT: -- in those two that I've ruled on so far of a good faith basis for a belief that 9011 would be violated by going forward with --

MR. STEINBERG: Right.

THE COURT: -- the proposed motion.

MS. LORBER: Well, I'm concerned that that's an advisory opinion as to --

THE COURT: It's not advisory at all.

MR. STEINBERG: It would be an order. It would be an order.

THE COURT: It's not advisory at all. It's a --

MS. LORBER: There's not a sanctions motion before the court.

THE COURT: No. I'm enforcing a settlement agreement that the trustee entered into.

MS. LORBER: But the settlement agreement only relates to what the trustee's good faith is, not to whether ultimately he would be held liable for sanctions or not.

THE COURT: Oh, that's right. If somebody wants to bring a motion under Rule 9011 that the trustee pursued this matter, I will have to rule on that. I think it's unlikely, given what I've just said today, that I would find in favor of that motion, but it's not foreclosed. I'm making a determination now pursuant to a contract issue, that's all.

MR. STEINBERG: And based on available information --

THE COURT: That's right.

MR. STEINBERG: -- and knowledge.

THE COURT: Okay. So let's keep going through the rest of the call.

MR. GOODMAN: Judge, for the record, counsel for Solar Turbines and NEC are each joining in each other's objections, is my understanding.

MR. VIGANO: That's correct, Your Honor. Jon Vigano on behalf of --

THE COURT: Sure. And, again, I'm not ruling on the merits of any motion to assume or assign today. We're going to talk about scheduling hearings on those matters tomorrow. Okay. I think the next matter then would be number 52 because up through 51 we're talking about motions to assume or assign.

MR. CHATZ: Right.

THE COURT: 52 is the first and final application of compensation for Mr. Szilagyi. This would be mooted by the settlement, and so we're going to go forward.

The motion to authorize distribution of settlement proceeds, where do we stand with this one?

MR. JORDAN: We have a draft order, Your Honor. We've agreed that the trustee is entitled to take $50,000, and that the remaining monies will go to Chiplease as a secured lender. And we had provided the draft order to Mr. Chatz, and he had reviewed it and made his changes.

THE COURT: Okay. Let me enter the order.

MR. JORDAN: If I may approach?

(Document tendered.)

MR. CHATZ: Thank you, Your Honor.

MR. JORDAN: Thank you, Your Honor.

THE COURT: Okay. Next is the application of compensation for Ungaretti & Harris also involved in the settlement motion. Final application, number 55, for Ungaretti & Harris also involved in the settlement motion.

Now, the motion to approve the settlement, who's objecting?

MR. JORDAN: We are, Your Honor. And I think we set forth our position fairly well in our papers. We're not saying that Your Honor can't approve a settlement. What we're saying is that you can't approve this settlement. And I note that Mr. Chatz' argument that the loss of the money cannot be quantified, the lost time value of money cannot be quantified, is incorrect. At about 1 percent in a savings account, loss of a million dollars for a year is $10,000. It's just too rich. They may be able to get something because maybe somewhere up the line somebody will disagree with the analysis that you presented, which makes sense to me with regard to Hen House, and the disagreement that you have set forth a number of times with regards to Debbie Reynolds. However, I think that unlikely. And I think the percentages do not allow for this to be at the lowest level of reasonable settlement. There is a reasonable settlement.

I would also note that what they're doing is between a trustee, lawyer, and a law firm, are deciding that lawyers ought to get paid when other people aren't. So it violates --

THE COURT: Okay. Look, Mr. Jordan, the whole question here is whether there is any theory that Ungaretti & Harris can propose that would result in Ungaretti & Harris as counsel to the Chapter 11 trustee receiving a payment in the Chapter 7 case ahead of Chapter 7 claimants.

MR. JORDAN: And I don't think there is.

THE COURT: And that is the issue that I need to have addressed by the proponents of this settlement because unless there is a valid theory that would allow for that result, I've got to decline to approve this settlement. So what's the theory?

MR. CHATZ: As pointed out in Ungaretti's brief, the decision in Hen House declined to rule on the issue of whether 506(c) had to be allocated.

THE COURT: 506(c) would only give them a 506(c) claim in the Chapter 11 case. How would that give them a priority over Chapter 7 claimants?

MR. CHATZ: Your Honor, what we've been arguing is that this is a settlement of an issue that --

THE COURT: No, no, no. I understand it's a settlement of an issue. But in order for this settlement to be in the best interest of the Chapter 7 estate, there must be some theory that would elevate the Ungaretti & Harris claim to a priority ahead of the Chapter 7 claimants. What is it?

MR. WALD: Your Honor, let me take a stab at it, if I can. We advanced several theories to start the case off. We advanced constructive trust, we --

THE COURT: It doesn't work.

MR. WALD: -- advanced quantum meruit, and the most important one is --

THE COURT: Quantum meruit doesn't work either. Now, let me just go through those. Constructive trust doesn't work because constructive trust cannot substitute for the priorities for professional compensation that are established by the Bankruptcy Code. You'd be elevating a common law doctrine for the priorities that are established for the -- expressly established by the Bankruptcy Code for the compensation of professionals. If a professional could assert a common law constructive trust theory any time the professional did something that benefited the estate, the entire operation of the Bankruptcy Code with respect to professional compensation would be undone. And I know of no case that's ever held that. There is a considerable debate in the cases about whether constructive trust can be used to establish a priority based on pre-petition conduct of creditors. But the notion that a constructive trust theory could substitute for the compensation schemes established by the Bankruptcy Code is something that I think has no support whatever. And I certainly -- I think the likelihood of that particular theory prevailing is virtually nil.

MR. WALD: Well, we had cited some Second Circuit cases that indicated that constructive trust might be a viable theory. Our best theory, of course, was 506(c) saying that the entire million-and-a-half that the Chapter 7 trustee got should be subject to 506(c). And under the statutory interpretation that we proposed under 550 where 550 talks about -- that the trustee recovers preferences for the benefit of the estate and that's lacking in 506(c), we felt that the entire million-and-a-half dollars was at risk. And,

therefore, with Mr. Steinberg, and under the auspices of the U.S. Trustee's Office, we had a series of settlement meetings to try and resolve this. And after many difficult negotiations, this is what we came up with. But we thought that we had a chance of getting the entire million-and-a-half dollars based on a 506(c) claim.

THE COURT: Would not any 506(c) claim be subordinate to the claimants in the Chapter 7 case?

MR. WALD: Not if the entire 506(c) claim was deemed to be ours based on all the money would go to the Chapter 11 trustee, I believe.

THE COURT: How can the claim of any Chapter 11 administrative claimant take priority over the Chapter 7 administrative claimants?

MR. WALD: Because we created the fund and --

THE COURT: That doesn't -- there is nothing -- no exception in the priority scheme for who created the fund in the Chapter 11 case. Chapter 11 administrative claimants are subordinate to Chapter 7 administrative claimants.

MR. WALD: No, I understand that. But we created the fund, and we -- our position would be the 506(c) --

THE COURT: Pursuant to what section of the Bankruptcy Code does that position -- is that position asserted?

MR. WALD: Well, just 506(c). Obviously the priority section is the priority section.

THE COURT: Yeah. And it covers 506(c) as well as any other administrative claim.

MR. WALD: Well, our position was that we have a chance of getting the million-and-a-half dollars under 506(c), that this resolves tens of thousands of dollars of costs involved in the Gregg Szilagyi Trustee hearing, tens of thousands of dollars of costs involved in the trustee -- or the attorney for the trustee fees, that it resolves our injunction, and that it settles matters and allows the estate to go forward. We are merely trying to get our costs back. When the case was converted from an 11 to a 7, we gave the estate -- Ungaretti & Harris, not we, gave the estate about $400,000. They had an order entered to get costs. We thought it was a very fair and equitable settlement.

MR. ROSE: Your Honor, under Debbie Reynolds, it is our understanding that the Debbie Reynolds case would say that is not property of the estate. And our textural analysis under 550 we think would also support that reading so that it never becomes property of the estate and would havegone directly to the trustee and his attorneys.

MR. WALD: It would have passed outside of the statutory schemes because it would go directly to the trustee.

MR. JORDAN: That's a heck of a settlement. They settle so they get a hundred percent of the money.

MR. WALD: A hundred percent would -- we're owed $3 million. We're getting 17 percent.

THE COURT: All right. Anything more that you wanted to add, Mr. Chatz?

MR. CHATZ: Your Honor, I understand where you are. I don't argue when I don't have much more to argue.

THE COURT: Did we have a representative of the U.S. Trustee here?

MR. STEINBERG: We do. She's --

MS. GLEASON: Yes, Your Honor.

MR. STEINBERG: -- hiding, but she's here.

THE COURT: What's your position in this --

MS. GLEASON: Judge, we do --

THE COURT: -- Ms. Gleason?

MS. GLEASON: -- support this settlement.

THE COURT: Would you tell me why.

MS. GLEASON: We think, given the concern as to the appeal, the time on it. We don't agree with

their argument, but we do think that there is some case law. And we do think that this is a reasonable --

THE COURT: What's --

MS. GLEASON: -- settlement.

THE COURT: What's the basis for believing that a 506(c) claim asserted by a Chapter --

MS. GLEASON: We don't --

THE COURT: -- 11 --

MS. GLEASON: -- believe that.

THE COURT: -- claimant can take priority over a Chapter 7 --

MS. GLEASON: We absolutely --

THE COURT: -- administrative --

MS. GLEASON: -- do not believe --

THE COURT: -- claim?

MS. GLEASON: -- that. We do not believe that, Judge.

THE COURT: What do you --

MS. GLEASON: But we --

THE COURT: -- think is --

MS. GLEASON: -- do think --

THE COURT: -- the likelihood of any such argument prevailing on appeal?

MS. GLEASON: Do not think it's good, Judge. But we do think that appeal will be costly to this estate, will be costly in the Chapter 7 because there is going to be costs involved by Mr. Chatz and -- or whoever takes this up. And we do think that while it's extremely unlikely, that there is a small possibility of it. And we think the costs of litigation is such --

THE COURT: Okay. But here is the requirement that I have to pass on in order to approve this settlement. I have to find that this settlement is within the range of reasonable litigation outcomes. And simply based on what you said, and I agree with it, the likelihood of this argument prevailing is extraordinarily small. And if I say that because there are going to be expenses of litigating it, there are always expenses of litigating --

MS. GLEASON: Yes.

THE COURT: -- anything. It would basically mean that a court would always have to approve any settlement, because even if the settlement was based on a legal or factual proposition that was extraordinarily unlikely ever to prevail, the court would be required to approve the settlement because there would be costs in litigating the matter.

MS. GLEASON: Judge, this also resolves the Ungaretti fee issue. It also resolves -- so that would be an extremely costly matter as well for this estate.

In addition, you know, there is that Ninth Circuit case, we don't agree with it, but it is out there, the Debbie Reynolds. And so there is some possibility here.

THE COURT: Look --

MR. WALD: We believe, Your Honor, that the assets pass. Obviously if the assets pass in the estate, I don't think we have a good argument. If they pass outside of the estate, because it's a 506(c), it was gotten from a secured creditor, and it passes outside of the estate, and we're right on the statutory interpretation, we have some chance of winning a million-and-a-half dollars.

MR. STEINBERG: Your Honor, I believe Mr. Jordan's objection is only as to the amount.

MR. JORDAN: Well, I --

MR. STEINBERG: I'm not...

MR. JORDAN: I'm saying what I think --

THE COURT: All right. I will --

MR. JORDAN: -- saying that --

THE COURT: -- give this --

MR. JORDAN: -- that there --

THE COURT: -- some more --

MR. JORDAN: -- is some --

THE COURT: -- consideration --

MR. JORDAN: There is --

THE COURT: -- between -- between tomorrow and today. If the parties reach some agreement so that there is no objection to this settlement, I'll be happy to approve that agreement. I've stated my concerns on the record. If there remains an objection tomorrow morning at 11:00 o'clock, I'll be required to pass on it.

MR. STEINBERG: Is Mr. Jordan's the only objection on behalf of Mr. Greenblatt? No other objections were filed?

MR. CHATZ: None.

MR. WALD: No.

MR. JORDAN: There are various parties, not just Mr. Greenblatt.

MR. STEINBERG: Well, the Greenblatt entities, for want of a better term.

THE COURT: This is continued with all of the other matters involved with Ungaretti & Harris to tomorrow --

MR. WALD: Thank you, Your Honor.

THE COURT: -- at 11:00 o'clock. The only remaining item on the call, I believe, is Szilagyi versus Jenbacher.

MR. STEINBERG: Yeah. That's been around for a long time.

MR. JORDAN: That's one of the lawsuits that we're going to be taking over. I'm not -- I'm not quite sure should -- should we have that transferred -- should we file a motion to transfer that to the district court since it's really not a matter for the bankruptcy court to hear since it doesn't affect the disposition of the estate?

MR. CHATZ: This was one of the matters that was sold pursuant to the settlement agreement, Your Honor.

THE COURT: I don't know that an assignment by the trustee removes bankruptcy jurisdiction over a matter as to which there was bankruptcy jurisdiction prior to the assignment. I'll continue this until tomorrow. You can give me your thoughts on the matter.

MR. JORDAN: Okay. That's fine.

MR. CHATZ: Your Honor --

MR. JORDAN: I'm not telling you there is or there isn't. I just haven't really been sure.

THE COURT: But I'm certainly not going to tell you what you ought to do with an adversary that's been assigned to your clients.

MR. JORDAN: I understand that. I only -- only in terms of the procedure. But we'll look at it --

THE COURT: All right.

MR. JORDAN: -- and we'll --

THE COURT: Is there anything more that needs to be dealt with --

MR. CHATZ: We do have --

THE COURT: -- this morning?

MR. CHATZ: -- the Allied/ADS agreement, the NEC agreement, Bloomington, Ottawa, Peoria, and Corpus Christi, and Rosencranse, right, that are still out on this motion to compel issue that --

THE COURT: Oh, I'm sorry that I – somehow I passed that by. I've got that here. Okay. Let's go through them.

MR. SMITH: Your Honor, may I interrupt for a second? Brad Smith on behalf of Jenbacher. If there is going to be a motion brought --

THE COURT: Now, are these motions on the call for today?

MR. CHATZ: Every --

MR. JORDAN: It's all one motion to compel. The various -- rather than file --

THE COURT: Okay.

MR. JORDAN: -- individual motions to compel, we thought it would be easier for the court.

THE COURT: Okay. What number is it? I just want to make sure that we've got this taken care of.

MR. STEINBERG: Are they on the call?

THE COURT: Because some are separate.

THE CLERK: 45.

MR. JORDAN: It's the third one on the call. That would be...

THE COURT: Okay.

MR. CHATZ: They compel the trustee. This is -- it's all --

THE CLERK: So they all go --

MR. JORDAN: 45.

THE CLERK: -- with docket number --

MR. CHATZ: It's all --

THE CLERK: -- 3327.

MR. CHATZ: Correct.

MR. JORDAN: 45.

THE CLERK: Which part of it was granted earlier.

MR. CHATZ: Part has been granted, right. Part has been granted.

THE COURT: Okay. I thought they were separate motions. That's my mistake. Whether it would be better to have had separate motions, I'm inclined to think so at this point --

MR. JORDAN: I'm sorry.

THE COURT: -- since we're going to have a confusing set of orders, and it won't be clear when we've completely resolved the motion. It would have been easier to -- and they may be continued to different dates. So it's going to be a real problem to try to deal with this motion.

MR. STEINBERG: Why don't we just include all those in the chart, and by the chart we can have different schedules --

THE COURT: Well, no, because some of these I think we're in a position to rule on. Now, I wouldn't mind having until tomorrow morning to do that.

MR. STEINBERG: Okay.

THE COURT: But a lot of parties came here today I expect prepared to rule, and it might be an imposition on them to have to come back tomorrow. So let's see what we can get taken care of right now.

MR. JORDAN: I think probably the easiest one is Bloomington, because their argument was that the notice wasn't given timely, and Illinois law provides that if the date for service is a Sunday, you go to the next day. Their brief indicated that they received it the next day. So the notice which was given by this trustee was timely.

THE COURT: Ms. Gelman's nonverbal communication indicates a disagreement with that proposition.

MS. GELMAN: Your Honor, the first – they raised this in the reply. I'd be happy to brief it in a surreply. The act I do not believe applies. The act on its face says it applies to the construction of statutes, not private contracts. I would --

MR. JORDAN: But the case law --

MS. GELMAN: I would be --

MR. JORDAN: I'm sorry.

MS. GELMAN: -- happy to draft a surreply on this if the court even considers the argument raised for the first time in the reply. They had our objection. They knew what our objection was.

MR. JORDAN: Your Honor, the case law using the statute makes it pretty clear --

MS. GELMAN: There is other --

MR. JORDAN: -- that --

MS. GELMAN: -- case law in the Seventh Circuit --

THE COURT: All right.

MS. GELMAN: -- addressing similar --

THE COURT: Apparently there --

MS. GELMAN: -- statutes.

THE COURT: -- is a need here for me to consider some authorities that haven't been cited to me, so there is no reason not to give you the opportunity to do that. What date do you want?

MS. GELMAN: A week to file a surreply.

THE COURT: That would be the 20th.

MR. JORDAN: Can we have time to file a response to that then, Your Honor?

THE COURT: Did you not already cite the authority that --

MR. JORDAN: Yeah.

THE COURT: -- you think --

MR. JORDAN: But she's --

THE COURT: -- supports --

MR. JORDAN: -- going to --

THE COURT: -- you?

MR. JORDAN: We're the proponent --

MS. GELMAN: They --

MR. JORDAN: -- for the motion.

MS. GELMAN: They said it --

MR. JORDAN: We --

MS. GELMAN: -- for the first time in a reply brief. I would object to that. But I'll let Your Honor...

MR. JORDAN: We...

THE COURT: You can have two days thereafter to file whatever you want to file.

MR. JORDAN: The 22nd.

THE COURT: That would be the 22nd.

MR. JORDAN: Thank you, Your Honor.

THE COURT: And the 27th at 10:00 o'clock for a ruling on this aspect of the motion. Again, this is going to make it really complicated. This one motion is --

MR. STEINBERG: Right.

THE COURT: -- likely to come up any number of different times, and it's going to be very unclear --

MR. CHATZ: Your Honor, why --

THE COURT: -- when it's --

MR. CHATZ: -- don't I ask --

THE COURT: -- resolved.

MR. CHATZ: -- Mr. Jordan, if I can impose on him, on anything that's open and not resolved to file new motions that will not change --

MR. JORDAN: I have no --

MR. CHATZ: -- the briefing schedule. But that way the docket will be clearer.

THE COURT: Yeah, I think we need to do that.

MR. JORDAN: I have no problem doing that. If I, you know, was wrong in thinking of making it easier and it turned out to be difficult, that was wrong in good faith.

THE COURT: Okay. 7/22, and a ruling 7/27 at 10:00 o'clock.

MR. CHATZ: 6/27, right?

THE COURT: Six. Yeah, I keep saying that. I'm sorry.

MR. STEINBERG: We don't respond to the good faith allegation, do we, Your Honor?

THE COURT: Okay. We've already dealt with the City of Columbus. Corpus Christi we've given more time for a response.

MR. JORDAN: Is that up on the 27th then again, Your Honor? I don't think we set --

MR. STEINBERG: We need --

MS. LORBER: We didn't --

MR. STEINBERG: -- a date --

MS. LORBER: -- set a --

MR. STEINBERG: -- for that.

MS. LORBER: -- date for it.

THE COURT: 6/22 will be fine for that, I think. Will that fit in?

MS. LORBER: 6/22 for --

MR. JORDAN: 6/22 for a ruling?

THE COURT: Yeah.

MR. JORDAN: Okay.

THE COURT: We have time to do that?

MS. LORBER: At what time?

THE COURT: Let me just... Yeah, we have to have a hearing. Well, wait a second.

MR. JORDAN: Just a hearing similar to what we're doing right now.

THE COURT: There is a factual dispute here. I think I'm in a position to grant the motion to compel at this point. What's going to happen is we're going to have a factual hearing on the question of whether the debtor operated this plant appropriately or whether the debtor was prevented from doing it by the City of Columbus.

MS. LORBER: Your Honor, we have a third party asserting facts that are unsupported by any evidence whatsoever. They can create a factual issue about almost anything. That doesn't make it a proper motion to assume and assign. It also doesn't take into consideration that the trustee has to have a good faith basis that the --

THE COURT: Okay.

MS. LORBER: -- assignee can cure and provide adequate assurances of future performance. This contract terminates in November of 2006. It would be impossible for this -- for anyone, any --

THE COURT: All right.

MS. LORBER: -- assignee to perform --

MR. JORDAN: Your Honor --

MS. LORBER: -- under the --

MR. JORDAN: -- all we're --

MS. LORBER: -- contracts.

MR. JORDAN: -- here on is the motion to compel. We're not here on the assumption and assignment issues or anything else. There is an issue that is ripe for determination --

THE COURT: Unless -- unless there is some reason for the trustee to believe that the factual assertions made by the Greenblatt entities are wrong, the trustee lacks a good -- and not just wrong, but unfounded, that there is no basis for those factual assertions.

Now, do you have something in response to what Mr. Jordan submitted, Mr. Chatz, that would indicate that the factual assertions he has made are unfounded?

MR. CHATZ: I don't believe they're unfounded. I don't believe that Ms. Lorber's assertions are unfounded either.

THE COURT: That's fine. The motion --

MS. LORBER: Was there --

THE COURT: The motion --

MS. LORBER: -- any investigation --

THE COURT: -- to compel --

MS. LORBER: -- on it?

THE COURT: -- is granted.

MR. JORDAN: Thank you, Your Honor.

THE COURT: And that will go into the scheduling that we're going to be talking about --

MS. LORBER: I would like --

THE COURT: -- tomorrow.

MS. LORBER: -- to clarify that that also doesn't -- that you indicated earlier that --

THE COURT: It doesn't preclude you from bringing a 9011 motion.

MS. LORBER: Based on adequate protection and cure, I don't -- I want to make sure --

MR. CHATZ: That's a whole different issue.

MS. LORBER: No, it isn't, because that is an element of assignment.

MR. STEINBERG: Either Mr. Greenblatt can provide it to the court or he can't. It's going to be a simple hearing.

MS. LORBER: But the trustee shouldn't be going forward with the motion if the assignee cannot meet the requirements of 365.

THE COURT: The next one is American Grading and McCook.

MR. CHATZ: We already did that one.

THE COURT: Yes.

MR. CHATZ: We've been compelled.

THE COURT: The next is Ottawa States Land.

MR. CHATZ: Compel us, Your Honor.

MR. JORDAN: Yes. I don't think there is -- theirs was based upon the fact that the bankruptcy filing --

THE COURT: Done.

MR. JORDAN: -- terminated.

THE COURT: The motion is granted. Peoria.

MS. KUJACA: Your Honor, we had filed an objection to the trustee's motion to assume or assign -- I'm sorry, Linda Kujaca on behalf of the City and County of Peoria -- but we did not file an objection to the motion to compel the trustee. We sought to have that --

THE COURT: Fine.

MS. KUJACA: -- deemed --

THE COURT: The motion is granted. Rosencranse.

MR. COMELLA: Your Honor, Phil Comella for Rosencranse. And just for protocol, I'm doing this, but Mr. Leiberman is on the phone in case we need historical reference, because --

THE COURT: Okay.

MR. COMELLA: -- he was involved during the hearing.

THE COURT: You might want to speak then in such a way that Mr. --

MR. COMELLA: Okay.

THE COURT: -- Leiberman can hear you.

MR. COMELLA: And I could go first, if you would like.

THE COURT: Yeah, please.

MR. COMELLA: Your Honor, I think that in this one, the trustee made the right call, in fact, the only call, to conclude that he had no good faith basis to go forward with this contract. You're well aware of the history of the Rosencranse contract. In April of 2004, Rosencranse moved for a date certain for the Chapter 11 trustee to assume or reject this contract. There were various extensions to that date. The first date was July 6th. They came in just before -- in September asking for an extension after the extension date had passed. There was a hearing September 1st. You extended the date to October 1st for assumption or rejection. That was further extended to October 8th, 2004, for assumption or rejection.

Finally, there was a hearing. The key part of the hearing was whether the estate could cure the default of not having a sales contract. Within six months of contract execution, which, by the way, would have been June 1997, you imposed a deadline for them to show a bona fide sales contract. They did not come forward with that evidence.

On March 24th, 2005, you entered an order denying the trustee's motion to assume the Rosencranse contract. Under 365(d), that is deemed a rejection of that contract. The trustee did not put that contract on to the last order extending the time to assume or reject contracts. Therefore, it's been rejected at least once, if not twice.

With regard to the termination, bottom line is that the same cure that Mr. Connolly on behalf of RTC gave for the contract notice of default was the very same contract that you held but did not satisfy the cure under the Bankruptcy Code. And so, therefore, since that cure of the contract default was deemed ineffective, the contract itself also terminated by its terms.

The bottom line is that the designation rights agreement is in the alternative. It's terminated contracts or contracts in which the trustee does not have the good faith basis to go forward. And so, therefore, because this contract has been rejected, the assumption has been denied, based upon time sensitive facts, i.e., the sales contract, there is ample good faith for this trustee not to go back to the well and somehow try to assume this dead contract. And that's essentially our position.

MR. JORDAN: Your Honor, the scenario was there was a letter of default. There was a cure with a sales contract. And I believe there was some colloquy on the record indicating that there was this attempt to cure. There was a hearing, and there was an order. And the order specifically said assumption is not granted, but it didn't reject the contract leaving -- and I note that they didn't include the transcript of that one, and now, of course, I'm new counsel here -- leaving open the idea that they were -- they had this contract and that there could be a resolution in the favor of the estate.

What the requirements of this contract were is that a determination that is uncured be given. After

that hearing, no one did anything so far as I can tell. Rosencranse didn't send the notice of termination, which, based upon the colloquy in the transcript, would indicate that they needed to send another termination. This matter was open and continuing, and was continued until counsel for Rosencranse came in and told the trustee on the record that it had been terminated. And in reliance upon that, the trustee terminated the agreement. But I don't think that that was a correct statement.

I think that what happened is, as with so many things in this case, is that it got carried along and carried along. It was neither fish nor fowl. It wasn't rejected. It wasn't assumed. And it certainly wasn't terminated. But what we're here for today, Your Honor, is to cure any past defaults and to --

THE COURT: No.

MR. JORDAN: -- allow the assumption --

THE COURT: I have --

MR. JORDAN: -- and --

THE COURT: -- to tell --

MR. JORDAN: -- assignment.

THE COURT: -- you, Mr. Jordan, on this one I don't think the trustee can go forward in good faith. The trustee's conclusion in that regard is well-satisfied. This has been a very vigorously litigated matter. There is a court order in place finding that

there is no right on behalf of the trustee to seek to assume and assign. That right terminated with the termination of that right as incorporated in actual orders of the court. And, again, given that that was ostensibly litigated, I don't see that there is a basis for the trustee to go forward at this point. The motion will be denied.

MR. JORDAN: Thank you, Your Honor.

THE COURT: Pontiac, Clarion, Wyandot, Wheatland.

MR. LEIBERMAN: Your Honor, David Leiberman. I'd like to be excused from the hearing, if I may?

THE COURT: Yes, you certainly may.

MR. LEIBERMAN: Thank you.

MS. GELMAN: Your Honor, we also do not believe that the trustee erred in his good faith belief that he could not possibly go forward to assume an expired contract. We set forth various legal arguments as to why this contract expired. I think that the trustee exercised his good faith. And I think it would be a Rule 9011 violation to move forward on this. And the only way that even the arguments that Mr. Jordan makes go forward is by either misstating the record or omission of facts. He omits, you know, the various facts that we weren't included on at least two motions to extend the time. So his own theory doesn't even make sense. He misstates the record when he says that we entered into a

agreement at various times in the reply. The contract had either -- we entered an agreement to extend the renewal date prior to certain orders or after certain orders. We always included language that reserved our right to argue that this was expired. We argued this issue at the settlement hearing. They were on notice. He also misstates when we first raised the issue. And I
think that it would be a 9011 violation to move forward.

MR. JORDAN: Your Honor, I think Ms. Gelman misstates the record. These contracts were included in each and every order continuing them. There is only one December 19 -- December 27, 1999, contract, and that's the ADS agreement. There is no other agreement.

With regard to the facts, I think Mr. Steinberg has set forth his version of the facts in his original motion to seek to assume and assign this agreement. There is a factual dispute, Your Honor, but that factual dispute should not prevent the trustee from going forward. The trustee believes he had an agreement. In fact, that agreement was integral to the settlement, the fact that this contract exists. And we're going – we went forward with regard to that. Allied made general statements with regard to the termination of the contract. So many people make so many general statements with regard to the termination of the contracts in this case, specifically the fact that it expired. I don't believe that was the focus of the conversation.

More importantly, Mr. Steinberg had communications with Allied and through counsel in which they discussed the extension. The Pontiac agreement had already been assumed by continuing the ADS agreement with regard to Pontiac. By continuing that agreement in the list, the only matter that they could have been considering was the extension of the right to renew since they had already been assumed, Your Honor. So that factual determination is to the intent of the parties, particularly with regard to their agreed order entered in the case. Those are significant issues that are in controversy and ripe for adjudication.

MS. GELMAN: Your Honor, the trustee has spoken. The trustee spoke when he wrote his letter saying that he refused to go forward on a motion to assume this contract because it had been expired. The trustee -- again, all their arguments are based on the fact that these series of orders somehow, even though it's completely unstated or unasked for in every single one of these orders to extend a renewal date -- he contacted us prior to the entry of this order one time asking for an extension of a renewal date. It was granted. He never asked again, okay? Every single order was simply asking for an extension of the time to assume or reject this contract. The court partially addressed these arguments at an earlier hearing, that these motions, these orders on motions that didn't even request the relief that he's saying somehow inherent in all of these orders is just not there. But even if you -- even if you addressed that, which I think is absolutely wrong, the last two motions he didn't even put Pontiac on the list. So their own argument makes absolutely no sense.

Further, the trustee's own intentions were clearly stated. He asked us for an extension. Once we gave him an extension of time to renew. Once. He never asked us again. When he wanted to renew a contract, he proceeded as if he -- as he proceeded on American Grading. He sent us the American Grading motion when he asked to extend the time to renew a contract. He simply was not asking for that relief in any of these orders that they matter -- that they managed to cobble together to somehow make this argument after the fact. It's just not there.

MR. JORDAN: Your Honor, I think it's terrific that Ms. Gelman can say we shouldn't have an evidentiary hearing because here is all my evidence. She wants to present --

MS. GELMAN: These are --

MR. JORDAN: -- her evidence --

MS. GELMAN: -- court orders.

MR. JORDAN: Excuse me, Your --

THE COURT: Okay.

MR. JORDAN: -- Honor.

THE COURT: But wait, wait. If there are no facts in dispute --

MR. JORDAN: The facts are --

THE COURT: -- there is --

MR. JORDAN: -- in dispute.

THE COURT: -- no need for a hearing. The question that's being raised now is whether an order extending the time for assumption or rejection of an unexpired lease somehow has the effect of extending the lease or extending a deadline for renewal under the lease. Those really are two separate questions. And each time that there was a motion to extend the time for assumption or rejection, I heard arguments to the effect that this has already expired, to which my response was if it's already expired, extending the time for assumption or rejection will have no impact on the expiration.

So given that we're dealing with two separate issues (1) whether the contract has expired and (2) whether the time for assumption or rejection of the contract can be extended, I think, unless you can point to something, an agreement, an order of the court that extended the time for extending the contract under the contract terms, there is no basis for the trustee to assume this contract.

MR. JORDAN: Your Honor, in January of this year Allied was in negotiations with the trustee. And during those negotiations, one of the matters that Allied -- after the entry of this order regarding the assumption and assignment, and after the alleged December 31 termination date, they sought to include in the agreement a term that the trustee as a part of the sale of rights to Allied will agree to terminate, present tense, the contract.

THE COURT: Yeah.

MR. JORDAN: So the parties' intention going forward from that date, the terms – the intention of the trustee in presenting this and the very tenor of the proceedings indicates that in using the language and in always citing the December 27, 1995, agreement, that they continued not only the assumption and assignment, but also the renewal. It's a significant issue with regard to fact that relates to a lot of matters not only before the court, but outside the court relating to the relationship to --

THE COURT: Do you have any court order or any agreement that extended the time that the estate had to exercise an option to extend the underlying agreement?

MR. JORDAN: I think that the orders extending time were those orders, Your Honor.

THE COURT: Okay. I don't think so. We have always made a distinction between extending the time for the estate to assume or reject and the question of whether the underlying agreement was terminated. And given that there is that distinction, which, again, was repeatedly made as I granted motions to extend the time for the trustee to assume or reject, the distinction was always made that granting that motion in no way implied that the underlying agreement had not terminated. That was always a separate consideration. If there is nothing that prevents the expiration of the underlying agreement according to its terms other than an allegation that an order extending the time for the estate to assume or reject is in place, the trustee does not have a basis for going forward on it.

MR. JORDAN: Well, my understanding is that the trustee has a basis because it's my understanding, and you can ask the trustee, his understanding was that those orders did, in fact, continue the renewal. Is that correct, Mr. Steinberg?

MR. CHATZ: Your Honor, I'm not going to have him testify right now.

MR. JORDAN: No, I think that's an important consideration as to his good faith in being --

THE COURT: It's not a question of what his subjective understanding was. It's a question of what the terms of the order were and the terms of the underlying agreement. Now, you may have a different recollection than I, but this is one that I am quite clear on. We have always maintained, as I granted motions to extend the time for assumption or rejection, that that was a separate issue from whether the underlying agreement was extended.

MR. JORDAN: But it does make a difference as to whether the trustee believes he had an agreement when he's putting forth --

THE COURT: In order to be enforceable, an agreement has to be bilateral. Unilateral does nothing under contract law.

MR. JORDAN: That's true, Your Honor. But the fact -- parties change their position when it goes against them all the time. That's a factual --

THE COURT: No, you're not going to find anything, I am confident, in the record where Allied's counsel acknowledges that an extension of time to assume or reject constitutes an extension of the underlying agreement that's subject to assumption or rejection. They've been here vociferously arguing for a substantial period of time that the agreement had terminated. And entering an order granting the trustee a right to continue the time for assumption or rejection has no impact on that. I'm going to deny the motion.

MS. GELMAN: Thank you, Your Honor. Walker and Connolly.

MR. JORDAN: There is no objection that was filed with regard to those, Your Honor.

THE COURT: Okay.

MR. CHATZ: I think there is one more. There is NEC.

THE COURT: Yes.

MR. JORDAN: We're not actually seeking to -- as a part of the Solar contract to compel NEC to do anything.

MR. VIGANO: Your Honor, John Vigano on behalf of NEC. If we could continue it until tomorrow as well so we can button down our agreement with Mr. Jordan, we would appreciate it.

THE COURT: Okay.

MR. CHATZ: That's fine. Thank you, Your Honor.

THE COURT: Are we finished?

MR. CHATZ: I think so.

MR. STEINBERG: I hope so.

THE COURT: Thank you all. See you tomorrow at 11:00.

(Which were all the proceedings had in the above-entitled cause, June 13, 2006.)

I, GARY SCHNEIDER, CSR, RPR, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS HAD IN THE ABOVE-ENTITLED CAUSE.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:	)	
	)	
RESOURCE TECHNOLOGY CORPORATION	)	
	)	
	)	
CHIPLEASE, INC. and SCATTERED CORPORATION,	)	
	)	**Case No. 06 C 5541**
Appellants,	)	
	)	
v.	)	**Hon. Matthew F. Kennelly**
RESOURCE TECHNOLOGY CORPORATION, et al.,	)	
	)	
Appellees.	)	

APPELLANTS' OPENING BRIEF

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I. BASIS OF APPELLATE JURISDICTION

This is an appeal from a final order entered in a bankruptcy case which was referred to the Bankruptcy Court pursuant to 11 U.S.C. §157. The order appealed is a denial, in part, of a motion seeking to compel the Chapter 7 Trustee to file a motion for assumption of certain contracts, pursuant to the terms of a settlement agreement with the Chapter 7 Trustee.

This order is appealable to this Court under 28 U.S.C. §158(a) as a final order. Section 158(a)(1) of Title 28 of the United States Code vests federal district courts with jurisdiction to hear bankruptcy appeals "from final judgments, orders, and decrees." 28 U.S.C. §158(a)(l). "[B]ecause bankruptcy proceedings are often comprised of many discrete disputes, most of which come to a logical conclusion before the entire estate is settled," courts typically read the finality requirement of § 158 "with a relaxed eye." In re Forty-Eight Insulations, Inc., 115 F.3d 1294,1298 (7th Cir. 1997); see also In re Devlieg, Inc., 56 F.3d 32, 33 (7th Cir. 1995) (stating that "finality is to be interpreted more liberally in bankruptcy cases" because "those 'cases' are often not unitary proceedings at all, but instead agglomerations of distinct proceedings"). The decision regarding the ADS Agreement (defined below) terminates the Bankruptcy Court's review of that agreement and the Estate's right to assume and assign the ADS Agreement to the appellants. While other issues may exist as between the Estate and the appellants as to other contracts and perhaps any claim that Allied might have arising from the

Debtor's obligations under the ADS Agreement prior to the subject ruling, the issue of assumption and assignment under 11 U.S.C. §365 is completely resolved. As such, this matter is ripe for appellate review.

II. STATEMENT OF ISSUES AND STANDARD OF REVIEW

Appellants Chiplease, Inc. ("Chiplease") and Scattered Corporation ("Scattered")(collectively, the "Appellants") hold secured pre-petition and Chapter 11 claims against Resource Technology Corporation (the "Debtor") and obtained rights to purchase certain assets and seek the assignment of contractual rights through the Bankruptcy Court's Order Approving Settlement between the Estate of Resource Technology Corporation and the Greenblatt Entities and Granting Further Relief entered on March 16, 2005 ("Designation Order") (Docket No. 3170). On May 26, 2006, the Appellants filed their *Motion of Chiplease, Inc. and Scattered Corporation to Compel the Chapter 7 Trustee To Seek Assumption and Assignment Of Certain Contracts* ("Motion to Compel"), pursuant to the terms of a Settlement Agreement and the Designation Rights Agreement approved by the Bankruptcy Court in the Designation Order (Docket No. 3327). The Appellants sought to compel the Chapter 7 Trustee to follow through on a motion that the Trustee previously filed (Docket No. 3250) under 11 U.S.C. §365 to assume and assign a December 21, 1995 Agreement (the "ADS Agreement") between the Resource Technology Corporation (the "Debtor") and American Disposal Services, Inc. ("ADS"). The

Trustee thereafter sought direction regarding the ADS Agreement and the Appellants filed the Motion to Compel to compel the Trustee to file a new motion under 11 U.S.C. §365 to assume and assign certain contracts including the ADS Agreement. On June 29, 2006, the Bankruptcy Court entered an order (the "Appealed Order", Docket No. 3462), denying the Motion to Compel as to the ADS Agreement.

The Appellants raise three issues in this appeal. The first is whether the Bankruptcy Court erred when it denied the Motion to Compel to the extent the Appellants sought to compel the Chapter 7 Trustee to seek assumption and assignment of the ADS Agreement. The second is whether the Bankruptcy Court erred when it found that the filing of a motion by the Chapter 7 Trustee seeking assumption and assignment of the ADS Agreement would be sanctionable. The third is whether the Bankruptcy Court erred when it refused to hold an evidentiary hearing on the Motion to Compel with regard to the ADS Agreement.

On appeal, this Court must accept the Bankruptcy Court's findings of fact unless they are clearly erroneous. Fed. R. Bankr. Proc. 8013. Conclusions of law are reviewed de novo. Matter of Woodbrook Associates, 19 F.3d 312, 316 (7th Circuit 1994). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985).

III. FACTS AND COURSE OF PROCEEDINGS

The Appellants and other entities entered into a settlement agreement with Jay A. Steinberg, Chapter 7 Trustee for the Estate of the Debtor (the "Chapter 7 Trustee"), whereby the Estate of the Debtor (the "Estate") sold to the Appellants certain assets and interests, and the Appellants and the Estate settled various disputes between them. (Docket No. 3170, Exhibit A).

As part of the Settlement, the Estate agreed "....the estate shall either convey designation rights to Executory Contract (if any), assign nonexecutory contracts (if any) with the assignee having the right and opportunity to cure any defaults and provide adequate assurance of future performance.....". (Docket No. 3170, Exhibit A, ¶4).

The Appellants and the Trustee also entered into a Designation Rights Agreement, setting forth the mechanism by which the Appellants would designate contracts for which the Chapter 7 Trustee would be required to file a motion to assume and assign such contracts to the Appellants. The Designation Rights Agreement provides, at ¶14, as follows:

* * * * * * * * *

arguments may or may not ultimately succeed, they are clearly sufficient to avoid the threat of sanction for the mere filing of such a motion.

Respectfully submitted this 13th day of November, 2006.

CHIPLEASE, INC. and SCATTERED CORPORATION

By:
/s/ Gregory J. Jordan
One of Their Attorneys

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No. 07-1879

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

IN RE RESOURCE TECHNOLOGY CORPORATION:

CHIPLEASE, INC. and
SCATTERED CORPORATION,

Plaintiff-Appellants,

v.

JAY A. STEINBERG, as Chapter 7 Trustee for RESOURCE TECHNOLOGY CORPORATION, ALLIED WASTE INDUSTRIES, INC. and AMERICAN DISPOSAL SERVICES OF ILLINOIS, INC.

Defendant-Appellees.

Appeal From The United States District Court
For the Northern District of Illinois
Case No. 06-C-5541
The Honorable Matthew F. Kennelly

APPELLANTS' OPENING BRIEF

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* * * * * * * * *

I. JURISDICTIONAL STATEMENT

The District Court exercised subject matter jurisdiction over an appeal from a final order of the Bankruptcy Court, pursuant to 28 U.S.C. § 158(a). This Court has appellate jurisdiction pursuant to 28 U.S.C. § 158(d). The District Court's Order was entered on March 22, 2007. Appellants filed their Notice of Appeals on April 16, 2007.

II. STATEMENT OF ISSUES

The issues presented for review are:

1. Did the Bankruptcy Court err when it denied, in part, the Appellants' Motion to Compel the Chapter 7 Trustee to Seek Assumption and Assignment of Certain Contracts (the "Motion to Compel") to the extent the Appellants sought to compel the Chapter 7 Trustee to Seek Assumption and Assignment of the December 21, 1995 Agreement (the "Agreement") between Resource

Technology Corporation and American Disposal Services, Inc.?

2. Did the Bankruptcy Court err when it found that the filing of a motion by the Chapter 7 Trustee seeking assumption and assignment of the Agreement would be sanctionable?

3. Did the Bankruptcy Court err when it refused to hold an evidentiary hearing on the Motion to Compel with regard to the Agreement?

4. Did the District Court err in affirming the Bankruptcy Court's ruling?

III. STATEMENT OF THE CASE

This is an appeal from a judgment of the District Court affirming a decision of the Bankruptcy Court denying, in part, the Appellants' motion seeking to compel a Chapter 7 Trustee to seek to assume and assign an executory contract.

* * * * * * * * *

Trustee would be sanctionable, is not a close call. As is demonstrated above, the Trustee has strong arguments in favor of his right to assign the ADS Agreement to the Appellants. While these arguments may or may not ultimately succeed, they are clearly sufficient to avoid the threat of sanction for the mere filing of such a motion.

Respectfully submitted,

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Dated: June 25, 2007